

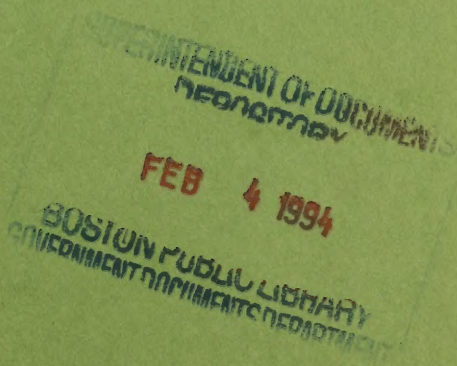
**BACKGROUND MATERIALS:  
SUPPLEMENTAL INFORMATION  
PROVIDED TO MEMBERS OF THE  
JOINT COMMITTEE ON THE  
ORGANIZATION OF CONGRESS**

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Background Materials: Supplemental...

**JOINT COMMITTEE ON THE  
ORGANIZATION OF CONGRESS**

**ONE HUNDRED THIRD CONGRESS  
FIRST SESSION**







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ORGANIZATION OF CONGRESS**

PREPARED BY THE

**JOINT COMMITTEE ON THE  
ORGANIZATION OF CONGRESS**

**ONE HUNDRED THIRD CONGRESS**

**FIRST SESSION**

Printed for the use of the Joint Committee on the Organization of Congress

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## JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

[Authorized by H. Con. Res. 192, 102d Congress]

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JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

HEARING SUMMARY, JANUARY 26, 1993

HOUSE SPEAKER THOMAS FOLEY

After opening remarks by Co-Chairmen Hamilton and Boren, who suggested a bold approach to legislative change (consideration of a 25% cut in staff, a new ethics system for Congress that could involve an outside commission of former Members, and a drastic cut in the number of committees), and Vice Chairman Gradison and Vice Chairman Domenici, who stressed the need to simplify the budget process and the need to consider 2-year appropriations, 2-year authorizations, and a 2-year budget resolution, Co-Chairman Hamilton invited Speaker Foley to present his testimony. Highlights of Speaker Foley's presentation is presented below as well as a summary of ideas suggested during the question and answer session.

Speaker Foley

Stated that he would like the opportunity, from time to time, to submit comments to the Joint Committee on its work.

Underscored the unique composition of the Joint Committee with no majority and no minority.

Recognized the unique culture and history of the House and Senate but believed that useful exchanges among the House and Senate members of the Joint Committee could promote bicameral understanding.

Stated that a significant amount of reorganization had already occurred in the House, especially with regard to changes in the internal management of the House (e.g., the Director of Non-Legislative Services).

Provided a historical perspective on how the House had changed from the era of powerful Speakers (e.g., Thomas "Czar" Reed and Joseph Cannon) to that of powerful committee chairmen. Strong, even autocratic, chairmen characterized the House when Foley was first elected in November 1964.

Today, the House is fundamentally different from what it was like in the mid-1960s. There is much more openness, public participation, accountability, and accessibility. Changes advocated by the DSG and other party entities "spread the action" in the House. Changes were also made during the mid-1970s and beyond that strengthened the Speaker.

Endorsed the proposed agenda of reorganization priorities established by the Joint Committee and stated that it was a time to be bold in considering changes. Everything that seems relevant ought to get the Joint Committee's attention. Every institution needs an opportunity for review and this is the time for Congress. The country has changed and so has Congress. Where the country and Congress previously accepted limited participation in politics and generally deferred to authority, neither is the case today. Moreover, the character of public problems has become more complex. For example, the civil rights issues of the 1960s are different from those of the 1990s. Congress' legislative agenda reflects the complexities of society and affects the way Congress works.

Pointed out that there are limits to what reorganization can do. Our Founding Fathers built inefficiencies into our constitutional system. Moreover, the House and Senate are political institutions and the debate in each chamber reflects that.

### Questions and Answers

Boren Should the Joint Committee leave campaign finance to others?

Foley Correct. The Joint Committee should leave that issue to others to handle.

Boren Asked about House-Senate relations spotlighting the issue of conference committee size and parallel committee jurisdictions.

Foley There is large concern in the House among authorizing committees. Some Senators serve on or even chair both the authorizing committee and the relevant appropriations subcommittee. Senators may subsume authorizations into their appropriations bill and thus never act on the House-passed authorization. As a result, the appropriations bills contain many "legislative" and unauthorized provisions. This issue arouses intense feeling in the House. Perhaps it's worth hearing anecdotal complaints in private from House and Senate members.

Boren The fuzziness of lines between authorizations and appropriations and the overlap between them is also an issue in the Senate. This fuzziness also makes it hard for the public to fix responsibility.

Gradison Highlighted how many societies around the world seem to fear change and worry that Government will not improve things.



Foley Many people have lost faith in the process. He suggested that if constituents spent much time, not brief visits, in Congress observing what happens and what their lawmakers do, they would probably develop an enhanced view of Congress and its members. He stressed that it is legitimate and fundamental for the Joint Committee to consider public confidence in Congress. Unlike the executive branch or the judiciary, which largely function in secret and are constituted differently, Congress is an open, representative body. Congress and its members need to do a better job of explaining to constituents how the legislative system works.

Dreier Expressed concern about the rise in the number of restrictive rules, skewed ratios on the Rules Committee, committee staff imbalances between Democrats and Republicans, and the general sense among Republicans that there needs to be more fairness in the House.

Foley Recognizes that there is the feeling of unfairness among Republicans. Stated that there is no attempt to be fair regarding ratios on the Rules Committee (or ways and Means) because of the panel's lead role in agenda-setting. On other committees, Foley works with Michel to achieve fairness in committee ratios. But Rules is different. When the GOP last controlled the House in the mid-1950s, even with a narrow majority, Republicans, too, used a 2 to 1 ratio for Rules. And if the Republicans should sometime in the future recapture control of the House and institute disproportionate ratios for the Rules, the Speaker will not complain. He pointed out that GOP Rules members play an important role by illuminating issues; also, not everything is strictly party-line.

Foley also noted that not every restrictive rule is opposed by the GOP. Moreover, the interests of the House are not always served by having unlimited debates and amendments. There are 435 members; wide-open floor actions would prolong and complicate legislative action.

He sensed some interest on occasion in the Senate (among Democrats there) for something like the House Rules Committee. Observed that perhaps the principle of majority rule has gone too far in the House and not far enough in the Senate.

Emerson Noted that Republicans stress the value of fairness and Democrats efficiency. The two values are interconnected, for efficiency may not be achieved without fairness.

Foley Foley underscored that fairness is an important value. There is another value, too, besides fairness and efficiency that is important. It is accountability to the public. Foley suggested that each Joint Committee member might try separating himself or herself from their own circumstances and try to consider the views of the other party. Democrats may be in the minority sometime and need to view changes from that perspective. Similarly, Republicans might consider how they want things structured if they became the majority party. Would the GOP want exact party ratios on committees, no proxy voting, etc. if Republicans were in the majority?

Geidenson On the matter of House-Senate relations, suggested the "Nebraska" solution (a unicameral body) and asked about the establishment of more joint committees as a way to get the House and Senate to work together.

Foley Joint committees are difficult and only a few have had legislative authority. A natural example of joint committees is conference committees. He would counsel against joint committees.

Questions of this sort have a benefit/cost ratio: controversy versus result. Committee jurisdictions need to be examined, but this issue arouses the proprietary concerns of Members in each party. Committee members go to their battle stations to defend and expand their turf.

Noted the sense on the majority side to move legislation, which is reflected in both chambers. Highlighted the example of Gramm-Rudman-Hollings deliberations when House Democrats and Senate Republicans were in the majority and had the responsibility of moving legislation. Discussions ensued about whether inviting in the bipartisan minority--House Republicans and Senate Democrats--might slow down the policymaking process.

Geidenson Expressed the view that the minority ought not have the ability to prevent the House from acting.

Reid Noted that the country has changed and observed this change in the huge increase in constituent mail. Care must be exercised to insure that Congress doesn't cut its resources beyond what it needs to carry out its responsibilities. He expressed the view that party leaders in both chambers (the Senate Majority Leader and Speaker) require more authority and asked the Speaker to comment.

Foley Responded that he's not bashful about more influence and noted that he is assigned responsibility for events even though he often lacks the line authority for them. But there are limits to what he requires (does not need to appoint chairs, e.g.) and "enhancing" changes should be at the margins.



Allard Is interested in House-Senate cooperation on common administrative or management areas (maintenance, security, service, etc.) and asked the Speaker to comment.

Foley Noted that there is quite a bit of common activity (police and maintenance, e.g.,) with much of it done by the Architect of the Capitol. Noted, too, that Congress is not a unicameral body and different administrative structures may be appropriate. He highlighted the far-reaching changes in the House with the bipartisan appointment of a Director of Non-Legislative Services and the end of party patronage in House services. Suggested that the Senate might consider a business manager, too. While the notion of consolidation of House and Senate Services bears examination, he suggested that the Joint Committee concentrate on legislative relationships.

Norton On the matter of ethical requirements, the difficult issue of "peer review" was highlighted.

Foley This is an area that deserves careful consideration. There are problems keeping the issue within the House or using an outside group. Emphasized that in a collegial body it is hard for Members to judge their peers. Also hard to get Members to serve on the Standards of Official Conduct Committee.

But there are drawbacks, too, in getting people from the outside. You need to find people who understand the official responsibilities and conduct of members and not personal conduct. There is also the question of conflict-of-interest by outsiders. They will be scrutinized as to what interests they have before Congress or whether they might try to curry favor with lawmakers. Perhaps former Members and former high ranking staff and maybe some people from the general public might be appropriate.

Members must have a fair process because of the personal and political impact of ethics issues.

Obey Provided some general observations. While institutions need change, there must be a balanced understanding of change. Congress is at a fundamental disadvantage compared to other branches of government. The President receives his advice in private, the "blood" is spilled in private, and then the Administration publicly goes forward in a unified way. In Congress, a chairman or ranking member can issue his/her own statement even if it's contrary to their leader's position.

Congress is not a failed institution. It has met its responsibilities quite well.

Expressed concern about House-Senate comity on the Joint Committee. Many House members are concerned about the Senate. The Senate contributes to fuzziness in the authorization-appropriations process. Senate authorizations often piggyback onto appropriations bills and invite controversy in the House. In addition to the different rules between the House and Senate, the "human factor" needs to be taken into account. There may be personnel problems at the top that contribute to piggy backing. The White House, too, may "stiff" the authorizers because they can get a better deal with the appropriators.

In short, in our evaluation, there is a danger of going too far in engaging in comity between the chambers. Filibusters affect the House and the House needs input on that practice.

Dunn Asked about complexities associated with the authorization-appropriations process and its potential for confusing the public.

Foley The Joint Committee can look at this area, and there has been a recent tendency for the appropriations process to dominate. Appropriations determine the resources for the underlying substantive law. People are confused by it. A child vaccination authorization may be enacted and press releases are distributed on it, but the program doesn't have money until it gets an appropriation. People get confused by this.

Congress is an institution that is constantly self-critical even in our day-to-day debates. Interest groups, too, often run elaborate public relations campaigns against Congress. To raise money, they try to create a sense of crisis, making attacks on Congress, to excite people to give money to their cause.

Congress has a host of internal and external critics that call into question the dedication of Members. We are not good at explaining what we do. People need an accurate sense of what we do and why we do it.



Summary of testimony of Representative Gephardt (26 January 1992) -

The Majority Leader suggested that the House needs to become more efficient and better able to respond to changing circumstances. Static rules, he said, were anathema to a functioning chamber in a changing world. He endorsed the aggressive hearing schedule of the Joint Committee, and spoke to several of the topics to be covered, but did not offer many specific proposals. He stated that enhancing public understanding of the Congress was a very important aspect of the Committee's work, and also endorsed investigations into better use of technology and application of laws to Congress. More specifically, he stated that the quality of debate needed to be improved and proposed that special order time be used for Oxford-style debates on significant issues; and that the unpredictability of scheduling was a sore spot with many Members on both sides of the aisle, suggesting that a strong Rules Committee had an important role to play in enhancing predictability of scheduling. He also stated (as did several other Members over the course of the day) that disparities between the chambers in the authorization and appropriations processes led to confusion.

Responding to a question from Senator Domenici, he conceded that streamlining committee jurisdictions was an important issue, but focused on the benefits of enhancing bicameral parity rather than on questions of realigning House jurisdictions per se. In response to a second question on biennial budgeting, Mr. Gephardt said that the experience of the past few years under the BEA has demonstrated that some form of multi-year budgeting could be successful, but stopped short of an explicit endorsement of biennial appropriations.

In response to a question from Senator Boren, Mr. Gephardt concurred with Mr. Michel's support for exploring the question of ethics committee structure, especially because of the strain on Member's time caused by membership on the Standards Committee.

In response to Mr. Emerson, he agreed that scheduling overlaps between floor and committee responsibilities was an issue, but offered no specific remedy.

Summary of testimony of Representative Michel (26 January 1992) -

The Republican Leader's opening statement focused on questioning the fairness of current House rules along with several suggestions for improving the situation.

First, he focused on the question of committees and proposed that there be a major realignment of committee jurisdictions in order to eliminate overlaps in jurisdictions, reduce multiple referrals and cut down on committee assignments for Members. As part of this he also suggested that with fewer assignments, proxy voting should be eliminated.

Second, he proposed reforming the rules to restrict the ability of the Rules Committee to issue structured rules.

Third, he made several proposals which he suggested would enhance public trust in the government. Such as having the Government Operations Committee controlled by the party not in the White House, even when it is in the minority in the House, in order to allow for effective investigations into the executive branch.

In addition, he seconded the idea that the Joint Committee should include the application of laws to Congress as part of its agenda.

Responding to a question from Senator Domenici, he reiterated that realigning committee jurisdictions was an important issue, and stated that too much authority was currently concentrated in the hands of a few committees. In response to a second question on biennial budgeting, Mr. Michel said that he opposes 2-year appropriations because he feels that they serve a significant oversight function.

In response to a question from Senator Boren, Mr. Michel stated (later supported by Mr. Gephardt) that the question of ethics committee structure was a legitimate one to be explored by the Committee.

In response to a question by Mr. Obey he stated that he supported enhanced rescission authority for the President, as well as some enhanced authority over targeted revenue provisions. This is embodied in H.R. 493, introduced by Mr. Michel on 20 January.

In response to Mr. Emerson, he agreed that scheduling overlaps between floor and committee responsibilities was an issue, but offered no specific remedy.



SUMMARY TESTIMONY OF SENATE MAJORITY LEADER GEORGE MITCHELL AND MINORITY LEADER BOB DOLE

MITCHELL:

- Emphasized need for reform including public criticism
- But cautioned against change for the sake of change and added one side's reform is another's problem so the JC shouldn't try to satisfy everyone.
- Outlined his proposed rule changes that he said would increase efficiency, make the schedule more predictable without reducing minority right to debate an issue. (Summary of rules changes is attached)
- Has talked to Dole about the rules changes and Dole doesn't agree.
- Should enforce committee assignment limits of two "A" committees and one "B" committee.
- Other steps (which could be imposed by individual party caucuses) to give leaders flexibility to committee assignments: no additional staff allocation, no additional subcommittee chairmanship, no accrual of seniority on the committee
- Campaign finance reform is one of his top priorities.
- Supports cuts in committee spending including a 10 percent cut in committee budgets (including leadership offices) for the next fiscal year beginning March.
- Senate leadership needs more power and authority; give leaders power to make committee assignments and to limit the number of roll call votes.
- Urged JC to review the budget, authorization and approp. process to make system more efficient. (So Senators don't have to debate and vote several times on the same issue.)
- Recommended against prohibiting voting in committee by proxy as that would add to delay.

DOLE:

- JC should study term limits and franking.
- Wants 30-day floor agenda from the majority leader published in the congressional record (and one for every day while the Senate is in session).
- His opinions on reform have been influenced by Eric Felten of the Heritage Foundation.
- Budget and staff have grown out of proportion
- Some committees should be eliminated (ex. the committees on aging, small business, and Indian affairs could be made into subcommittees of other committees).
- Could cut 1994 committee budgets to 90 percent of their 1993 budget. (Same 90 percent rule to the Office of Technology Assessment, CRS and GAO).
- Cap committee staff levels.
- Limit detailees. (No Senator or Senate committee should accept a detailee by a federal agency.)

- Limit each session to six months.
- Limit committee assignments.
- End proxy voting.
- Eliminate commemorative bills.
- Will stand up for minority rights.

#### QUESTIONS AND ANSWERS:

NORTON: Will reform proposals carry more weight coming from the JC?

MITCHELL: They will have greater force than otherwise but some will be easier than others (ex. committee changes are more likely than cloture changes)

DOLE: Agrees. It will be hard to pass rules changes. But if the five leaders are behind the JC's recommendations, it will have a big influence.

LUGAR: What's the best way to handle non-legislative affairs (such as operation of the cafeteria). A non-partisan "CEO" who reports to the members as the "board of trustees"?

MITCHELL: That's an important subject. Congress made a modest beginning when addressed perks last year and efforts should be expanded to other area.

LUGAR: How to avoid items slipping in at the end of the approp process (such as the Lawrence Welk memorial)? Do they favor combining approp and authorizing?

MITCHELL: The tension between approp and author. has always been there and grows out of the checks and balance set up by founders. He has no specific solution and is not familiar with Kassebaum's proposal but will review it.

ALLARD: Interested in ways the House and Senate can cooperate on agencies. (Ex. There are different rules in the House and Senate for taking pictures.)

MITCHELL: Welcomes an analysis of where cooperation exists and doesn't exist with the goal of cooperation, uniformity, efficiency and cost savings.

KASSEBAUM: Is bothered by duplication of debate in auth and approp bill; making changes will improve accountability to public; She would support Mitchell's rules changes if she was in the majority but protections are needed for the minority.

DOLE: The system does waste a lot of time; doesn't know how to fix it.

MITCHELL: Isn't proposing prohibiting unlimited debate or the



unrestricted right of amendments - the two unique charct. of the Senate. The question is, however, should they be retained in their current form and allow virtually unlimited delay and obstruction.

COHEN: Authorizing committee is becoming increasingly irrelevant. The public is critical when the Senate has a lot of talking but little debate and when there's a lot of session-time but not much talking. Suggests limiting the amount of time members have to come to the floor to offer amendments. Give the leaders the chance to force members to do things.

MITCHELL: Hopes to institute real debate this year.

DOLE: It's hard to get members to come to the floor. Agrees members need more power to get them there.

BOREN: A theme today seems to be that the leadership should be strengthened.

REED: Need to strengthen leadership in both chambers.

The debt would be much higher if all the money that was authorized was appropriated. He has introduced a bill to require the auth. committee to audit programs.

Leaders should make committee assignments.

MITCHELL: Agree. That would strengthen leadership and make assignments more equitable (in terms of seniority and geography).

REED: When people say staff has grown, forget population has grown so number of constituents and amount of mail has grown as well. What do they think about ways to improve agenda-setting?

MITCHELL: The suggestion for a period of unrelated debate is less desirable than having debate about specific legislation. Best debate is when there's an important national issue at stake and there is a real give and take; helps both members and the public make a dec. about the issue.

REED: Agreed Gulf War debate was finest.

DOLE: Seniority system works well on committee assignments on his side.

MITCHELL: Should say for the record that the two parties have different methods of making assignments and there may be diff. suggestions for reform.

REED: Hopes people listen well to what Cohen said about subcommittees.

BOREN: There were 37 committees after LaFollette and the country seemed to function well.

SOLOMON: (Told what was happening with floor vote on select

committees.) The suggestion to have the JC make a recommendation on select committees shows what respect Members have for the committee.

WALKER: The checks and balance system in the budget is lost because the auth. and approp. are usually the same people in the Senate. Because appropriators find it easier to throw everything in approp. bills, authorizing bills often don't get passed so auth bills passed in the House sit in the Senate. Hope to find some way to get through the problem.

.....lapse due to having to leave room to make copy of testimony...

OBEY: The only budget resolution Congress is able to pass is one that lies. Ought to examine something like Lou Fisher at CRS has talked about. Need to force the president to have a real proposal from day one and force Congress to react to a real document. Cr. could merge Ways and Means and appropriations.

DRYER: With 110 new Members, some say change has taken place and reform isn't necessary. How to keep the opportunity for reform from slipping away?

MITCHELL: Was anxious to come here today to demonstrate the importance of this committee's work and to encourage the JC to make proposals based on what they think is right, not trying to satisfy all critics. Time is right for change (public's low regard for Congress, Members frustration with things like proliferation of committees and other assignments). Can't commit in advance to specific proposals but will do all he can to get changes.

DOLE: JC is very important. The worst case would be for the JC to not agree on anything of substance. The leadership will be there to act on the JCs recommendations.

MITCHELL: The most significant recent social change has been instantaneous communication of events; history is more compact; timing is crucial to getting anything done; the time is right now for reform (Hope all bold enough to seize it.)

DCMENICI: History has brought about the approp. process and we ought not to be too quick to give it to the authorizers; too much concentration of power and interest. Need to restructure auth committee so somewhat same in both houses.

Concern: Repetition. Suggest shutting tv off when speech being made for second time.

MITCHELL: Agree redundancy is a serious problem.

HAMILTON: 15-20 Members stopped him on House floor after watching the day's proceedings on C-SPAN and said the JC has an important but very tough job. Members are very interested in what the JC does.

BCREN: Nothing has made him more optimistic about the JC than the interest shown by the leaders.



## JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

HEARINGS SUMMARY, JANUARY 28, 1993

FORMER SEN. RUDMAN AND REPS. JONES AND FRENZEL

SENATOR RUDMAN

Made suggestions in two broad areas: budget and ethics.

1. Budget The process is too cumbersome, duplicative, and repetitious. Supports a two-year process for authorizations and appropriations. Streamlining is important. Fewer steps is key.

2. Ethics His deepest concern involves the Senate Ethics Committee. The ethics process established when the Senate Ethics Committee was first created with its heavy emphasis on procedural due process for Senators, is no longer applicable today. Instead, the current arduous process deprives Senators of due process and subjects them to lengthy and tortuous procedures. Present Senate rules require three separate steps: (1) a preliminary inquiry where the Chair, Vice Chair, and appropriate staff determine if there is "probable cause" to continue the proceedings. (2) Next comes the initial inquiry, which is akin to a grand jury proceeding. This is conducted by the Committee, its staff, and any appointed special counsel. (3) The third stage is an investigation wherein the Ethics Committee typically conducts hearings on the matter. This method of proceeding is simply too long. There should be two steps. The first is an investigation with the form of this process depending on the seriousness of the charges. Senators would testify in closed session. Because the current process should be a bifurcation of the procedure. After the Ethics Committee has conducted its investigation and the Members decide to go forward, then the Committee should present the facts to a bipartisan panel of Senators appointed by the joint leadership.

Some Senators, such as Senator Heflin, have suggested that retired Senators and retired Judges ought to constitute the independent judging body. Rudman disagrees. The Constitution states that sitting Members should judge the conduct of their colleagues. Moreover, it would be difficult to get people to serve on these outside panels because many might be hesitant to participate in such proceedings for various reasons.

FORMER REPRESENTATIVE JIM JONES

After highlighting the important assignment of the Joint Committee and the disturbing loss of public confidence in Congress, Mr. Jones addressed the issue of legislative-executive "gridlock." He chaired a panel put together by the National Academy of Public Administration (NAPA) that produced Beyond Distrust: Building Between Congress and the Executive. His formal presentation reflected the findings of the study. The recommendations include:

**BUILD BRIDGES FOR PRODUCTIVE RELATIONS BETWEEN THE BRANCHES**

1. Establish a Joint Legislative-Executive Conference. The bipartisan leadership of both houses, the President, and agency heads should support the establishment of a joint legislative-executive conference to provide continuing attention to legislative-executive relations.
2. Staff-to-Staff Working Groups. Congress and the Executive Branch should support creation of regular staff-to-staff working groups, personnel exchanges, and joint training programs to facilitate interbranch communication during policy development and program implementation.
3. Performance-Based, Citizen/Customer-Oriented Demonstrations. Congress and the President should encourage performance-based program and regulatory evaluations in specific policy areas.

**PROVIDE LEADERSHIP FOR BROAD PLANNING AND POLICY DEVELOPMENT**

4. Broad Agendas to Drive Policy Planning. The President and executive branch officials should develop an agenda of national needs and goals. The bipartisan congressional leadership should be consulted in defining these issues.
5. Congressional Policy Expertise. Congress should initiate a broad review of its organization and legislative processes to develop broad policy expertise.
6. Executive Leadership for Improving Broad Policy. The President and Congress should further strengthen executive leadership to improve broad policy and program planning.

## IMPROVE EXECUTIVE INFORMATION AND CONGRESSIONAL OVERSIGHT

7. Executive Information Capacity. The President and executive branch officials, with support from the congressional appropriations committees should build a strong planning, budget, financial, and management information capacity and fully implement the Chief Financial Officers Act of 1990, which seeks to bring more effective management practices to the federal government.

8. Congressional Oversight Capacity. Each house should strengthen its oversight processes.

## STRENGTHEN THE STRUCTURE OF FEDERAL EXECUTIVE FUNCTIONS

9. Evaluation of Executive Organization by GAO. Congress should direct the GAO to review and evaluate all entities that carry out executive functions.

10. Evaluation of Executive Organization by Congress. Congress should rebuild its institutional capacity to review and evaluate proposed organizational changes.

11. Evaluation of Executive Organization By the Executive Branch. The President should establish in the OMB the capacity to review and evaluate executive functions.

Mr. Jones also said that there are too many overlapping committees, and federal executives have to spend an inordinate amount of time testifying before so many. He also believes there are one too many budget cycles and Congress' budget process can be reduced to two main stages. He also supported a biennial budget process.



FORMER REPRESENTATIVE BILL FRENZEL

Before highlighting the points made in his testimony, Mr. Frenzel agreed that the ethics process needed changing, supported the examination of a multiyear budgeting process, and suggested that the President sign the concurrent budget resolution. His testimony was organized around radical changes, cost savers, and face savers.

## RADICAL CHANGES

1. Constitutional Amendments. Supported term limits, balanced budget amendment, and the line-item veto.
2. Make Congress Obey Its Own Laws.
3. Committee Jurisdiction. Committee reorganization is the priority organizational need in the House.

## COST SAVERS

1. Abolish Select Committees.
2. Reduce committee staff.
3. Reduce total number of subcommittees.
4. Cut leadership staff substantially.
5. Abolish associate staff.
6. Bring legislatively mandated employees under the same scrutiny and authorization process as investigative staff.
7. Resurrect the House Inspector General.
8. Publish monthly in the Record all expenses of all Members in a reasonably organized way.
9. Reduce the number of personal staff and the expense limits.
10. Prohibit the use of taxpayers' money for Legislative Service Organization.
11. Reform the franking privilege.

12. Abolish OTA; reduce CRS; reduce GAO.

#### FACE SAVERS

1. The principle of minority rights in the House needs strengthening. Further, no amount of Oxford-Union style of debate will make up for the loss of dynamism and the vitality of real floor debate in the House.
2. The House and Senate need a business-like schedule.
3. The House may have to use outsiders in a revamped ethics process, but do not draft former Members.
4. Do what is necessary to revamp campaign finance laws, but don't use taxpayers money.
5. If a so-called perk is Congress specific, rather than government-wide, put it at market rates.

Mr. Frenzel suggested that to realign committee jurisdictions may be too much to do at one time. He suggested a long-term plan for change and then move incrementally toward it. Mr. Rudman suggested a phased-in approach. He said it is important to attack the genesis of the committee reorganization problem, which is position and power. A phased-in approach is a reasonable solution, because the natural turnover of membership will facilitate reaching significant committee reorganization. Rudman also suggested, as did Jones, that committee jurisdictions should be aligned with the executive branch.

## HEARING SUMMARY, FEBRUARY 2, 1993

Four Witnesses: Senator Robert C. Byrd, Senator Christopher S. Bond, Senator Charles E. Grassley, Senator Hank Brown.

Senator Robert C. Byrd

He dedicated his remarks to the operation of the Senate.

Stated that last year was open season on Congress, during which there was a whirlwind of charges against the Congress. Senators were charged with transgressions they did not commit, although individuals felt certain of their charges. However, distortions by those who make charges are representative of genuine institutional problems.

Asserted that the primary, root problem of the Senate today is the "fractured attention" of Senators. Action is delayed because Senators are not in D.C.

Argued that we need to put a lid on the amount of money spent running for a Senate seat. We need to enact campaign finance reform, and maybe 1993 will be the year. The single most important step towards improving the Senate would be to enact campaign finance reform.

Recognized that Senator Boren's focus in this context is on internal Senate changes. Asserted that problems tend to be addressed through tinkering with the process, and gave examples of these "process fixes," including a balanced budget amendment and a line item veto amendment. These proposed changes, advanced to reduce the budget deficit, would be damaging to the Constitution. Relying on "quick fixes" to substantive questions has impeded coming up with workable solutions. The hard choices are difficult for Members.

Underscored that the Senate needs to engage in great debates, because if not the information vacuum is filled by others. The American people must force issues before their representatives can come up with workable solutions. In some cases frustrated citizens support dictators because they can act immediately.

More and more, the Senate is ceasing to perform its deliberative function. The "Senate has lost its soul." But the answer is not in tinkering with the process in pursuit of efficiency. The Senate was not intended to be efficient. The Senate would become more effective when Senators again become interested in being full-time Senators.

Emphasized that Senators can not know everything, and should not wear too many hats. It is virtually impossible to give attention to more than two major committee assignments. We need to reduce committee assignments to two or one per Senator so that Senators can better focus on the issues of their assigned committees. Many Senators only know enough about an issue to fill a



two paragraph press release. They are expected to be experts on every subject. Senators run too much from issue to issue, relying solely, or too much, on staff. This frenzied activity fosters fractured attention spans.

Senators do not always see debate on the floor as the best way to use their time. Debate is dying as an art, because of which Congress is held in low esteem. People will listen to intelligent explanations of matters, as demonstrated in the presidential campaign. Debate on the Senate floor is one of the best ways to achieve this. C-SPAN should air the difficulties of national problems. Voters should be encouraged to examine facts for themselves, so they do not only get the too often distorted information of the news media and the lobbyists. The people need a better understanding of complicated matters, like health care and the environment. Congress can not inform voters without extensive debate on these very issues.

Emphasized that finding ways to expedite the legislative process does not seem to address the Senate's problems. Needed is the informing, deliberative function so that the Senate does not become irrelevant. The Senate must find ways, must explore ways, to encourage Senators in the direction of debate to inform Americans. It must stop trying to substitute process for purpose.

Stated that the Senate must be in session five days a week, certainly for the better part of a session, to encourage debate on the floor. Now, when Senators know that there are no votes scheduled, they are not around for responsibilities including floor discussion and oversight in committees. A five day Senate floor work week characterized by real debate is essential.

Related that from experience, he knows how hard it is to work around the schedules of 100 Senators. But this working around their schedules can not be done. The quality of life should never be viewed as more important than, or even as important as, the quality of work.

Offered that he did not mean to say that no improvements are possible. Committees are too large and there are too many assignments to committees and subcommittees. This creates problems. It is difficult to get quorums, committees are unwieldy, and the task of committee leaders is compounded. Big committees also mean that it is more difficult to hammer out compromises. However, the rewards of service on too many committees apparently are too attractive for Senators to decline. Members are overcommitted and unable to concentrate on the substance of their committee work. Participation is marginalized on some committees and subcommittees.

Related that this is not a new problem. The 1946 and 1970 Legislative Reorganization Acts addressed this same problem. The number of panels and the number of assignments have increased since 1946. And today, about one half of the Senators have waivers from the committee assignment rules.

As the Chair of the Committee on Appropriations, he urged the Joint Committee to proceed with caution in changing the appropriations process.

Some changes are possible. For example, on the floor there are too many non-germane amendments to appropriations bills.

The current process for setting and for enforcing the rules of Congress needs to be redefined.

Agreed that misgivings about the ethics process are understandable. An ethics advisory board of non-Senators could be established, and it could make recommendations to the Senate Ethics Committee.

The goal of executive and congressional lobbying restrictions is good, but these restrictions are difficult to accomplish.

Advised that the soul of the Senate should not be sacrificed in an effort to reform the Senate.

### Questions and Answers

Dunn: What are the one or two most important changes that the Joint Committee could make?

Byrd: As far as the Senate is concerned, we need to get back to working, and to be perceived as working. Members need to come to the floor and debate. To make the Senate more effective, not efficient, we need to get back to the business for which the Senate was created.

Cohen: How can we shrink the committee structure, without proliferating subcommittees?

Byrd: I think that there is a rule that additional subcommittees can not be established without the approval of the Senate. We should simply refuse to create more subcommittees.

Cohen: Should we abolish the appropriations committee, or abolish the authorizing committees, and consolidate their responsibilities? Stated that he finds authorizing committees less and less relevant today, and that they are redundant.

Byrd: What is it that this consolidation would achieve?

Cohen: It would eliminate the duplicative testimony of witnesses before committees.

Byrd: History shows us that turning over the appropriations function to authorizing committees does not work, in terms of saving money of the taxpayers. He gave a historical example. I see no evidence that such consolidation of the functions of the authorizing and appropriating processes would improve the process.

Reid: Should the Majority Leader get the power to appoint members to committees?

Byrd: I do not think so. Stated that when he was Majority Leader, he wished he could have appointed members to committees. Since then he has often reflected on the question. With that kind of power in the hands of the Majority Leader, something has to give, something suffers; what suffers is the independence of individual Members of the Senate. This power should not be given to any Majority Leader.

Reid: Stated that the role of both the Speaker and the Majority Leader should be examined. Both should be given increased power. Do leaders suffer from lack of authority?

Byrd: Stated that when he was Leader, he often longed for the power of the Speaker, and that he might have been another Czar Reid with that power. Related the history of the evolution of the party leaders in the Senate, and stated that the Majority and Minority Leadership positions are relatively new, and are still emerging offices.

There are Senate rules that can and ought to be used to move the Senate floor. Stated that he knows that this can upset colleagues, but that the rules should be used in order to lead.

One thing that would bring most relief to leaders is campaign finance reform. It is so hard to schedule around the personal schedules of Senators, which is extremely frustrating for the leaders.

Obey: Discussed two issues of interest to him: the authorization and appropriations process, and the budget process. Stated that he was intrigued by the proposal of Lou Fisher of the Congressional Research Service, that the Budget Committee not be eliminated but that the requirement for budget resolutions be eliminated. Also, leaders should make budgets consistent with reality. Asked Senator Byrd whether he agreed.

Byrd: Stated that he would have to study it more, and was not sure that we could do away with the budget resolutions. Also, he remarked that he does not want to make things worse.

Obey: Fisher would argue that it creates the appearance of dialogue between the branches, but since the initiation of the budget process there has been less fiscal discipline than before.

Stevens: Should we limit the length of time that Senators should serve on committees?

Byrd: No.



Stevens: Noted that it is difficult to get information to a lot of places in his State. Should we look at the information techniques of Congress?

Byrd: As part of his response, stated that the newsletter privilege has been abused, but that there is something to be said for newsletters.

Stevens: Should Members have total discretion as to how they use their allowances? Suggested that Senators should be treated as if running small businesses, and each should be able to use his or her total allowance as he or she sees fit. There should not be standardized allowances for all offices.

Lugar: Spoke about service on the Ethics Committee. Asked who should serve on the Committee, and whether we should have such a Committee at all. What are Senator Byrd's comments on the Ethics Committee?

Byrd: One of the hardest things is getting Senators to serve on the Ethics Committee. Nevertheless, all these issues can not be left up to the courts. Some of these activities never get into the courts, in part because they are not criminal. A plausible approach would be to have a panel of some former members, carefully chosen, without axes to grind.

Stated that he hoped that the Joint Committee would make some recommendations in this area, because the process does not work very well. The three Committee Democrats protect their Democratic colleagues and the three Committee Republicans protect their Republican colleagues. The burden could be put on ex-Members, and off sitting Members.

Lott: If we reported a measure that would improve the way that we do business in the Senate, in two or three ways, what would that include?

Byrd: We do not need a new rule to expedite business. The trouble is not the way that we do business, the trouble is the people. There is too much partisanship in the Senate, which is responsible for some of the gridlock. The goal should not be to expedite business. Let's debate more, and talk about and weigh things. It seems like we are searching for a way to have less debate. For example, having one day of Senate session with all the votes scheduled would be destructive.

The Joint Committee should take its eyes off expediting the business of the Senate. Let's produce a better product.

Lott: Stated that there are a number of things that he does not understand about the Senate, including why it is not in session on Mondays, and why it sits at night when it has not met during the day. Another prerogative difficult to understand is why things are held up because one Senator is downtown and has not gotten back yet to participate in debate.

Byrd: Described how he inaugurated the practice of three weeks of Senate session then one week off, and said that "on weeks" were to involve working on five days. That was the bargain.

Emerson: Inquired as to how to get five day work weeks in the House. Can we have mandatory attendance? Can we force Members to be here? Could we shut down the House while committees meet, and vice versa?

Byrd: A great gulf has been created between the ideal and the real. In classrooms and to political scientists, this is a great idea. But it will not work. Related how when he was leader, if he wanted committees to meet, he made sure that the Senate was in session and that there were votes. Otherwise, Senators were not around. The object is not to have a good report card on the number of hours and days of session. Committees will not be here to meet if the Senate is not in session and there is not the possibility of votes.

Commented on other issues:

Stated that he wanted to debunk the idea that by merging the Appropriations and authorizing committees, we might somehow save money. Also, we hear it said that Congress approves every dollar, and that the President can not spend a dollar unless the Congress appropriates it. With the use of flip charts and an aide, he produced data to assert the contrary. Charts showed the growth of entitlements over time.

He suggested that the President veto bills creating new programs, and that it could not be said that Congress is the big spender. Over the decades, Congress has spent billions and billions of dollars less than Presidents have requested.

Asserted, and demonstrated on a chart, that Congress has discretion in two areas: defense, which constitutes 19.2% of the budget, and domestic discretionary, which constitutes 12.7% of the budget. In 1932, the Appropriations Committees had discretion over more than 90% of total funding. Now, they have jurisdiction over only 31.9% of the total budget. Entitlements and mandatory spending have grown enormously.

Boren: Noted that we are on autopilot in terms of most spending.

Byrd: The authorizing committees have jurisdiction over these entitlements, in terms of creating them, but then the entitlements are around from then on.

Domenici: If we could have diminution of fractured attention as a goal, it probably would be a very good one. Asserted that taking on more and more things causes less meaningful participation in real things, e.g. committee business.

Asserted that increased floor debate is not the answer, because staff does a lot more work than Senators care to admit. Having to go to the floor and debate would be a redirection of effort.

Discussed the fractured jurisdictions of authorizing committees, and asserted that where there is duplication of jurisdiction, we need to make more sense of it. Stated that too often we do things on the same subject matter, and that we should not have appropriations every year. We should appropriate one year, and then the next one could be dedicated to oversight.

Byrd: Rejected the idea that we should have a two year appropriations process because this would 1) increase supplementals, and 2) the Senate does not spend an inordinate amount of time on appropriations bills and supplementals. We must have annual appropriations as part of our oversight responsibilities.

In many instances, the Appropriations Committee is the only real oversight instrumentality. Many agencies would shut down if appropriations bills did not carry the authorizations.

Asked to include in the record an additional statement, and a budget office document on unauthorized appropriations and expiring authorizations. He cited examples of how long it has been since different agencies have been authorized, and stated that the government would shut down if appropriations bills did not contain authorizations.

Boren: Agreed that fractured attention is a problem. Part of the problem is the high number of committee assignments. Suggested an absolute rule of 50 committees and subcommittees, with no Member serving on more than two. Inquired as to whether this should be done in increments, or whether the Senate should go for broke -- from an average of twelve to two assignments per Senator.

Byrd: Stated that he does not think that taking the incremental approach is the right way to go. If committee assignments can be reduced, that and nothing else, then the time of the Joint Committee will have been worthwhile.

Noted that he has a paper on tax expenditures and how they increase the deficit.

Boren: Stated that he would be happy to receive it.

#### Senator Christopher S. Bond

Stated that he is an enthusiastic supporter of reform.

Asserted that we need to reform the way that the Ethics Committee does business. A new mechanism is necessary. We need to create a fact finding panel



of former judges, as a first step before Senate action. We need to bifurcate the process, as in the House.

Argued that we need a mandatory adjournment date, and that the pay of Members should be withheld after the adjournment date passes. Often the very best ideas come from home in the States. A better understanding of Congress and its problems will come from spending time with constituents.

Stated that we need to impose discipline in the scheduling of bills and in the handling of budget and appropriations.

### Questions and Answers

Boren: You and I are in very close agreement on the Ethics proposal. However, I would expand the membership of the Ethics panel, and it would include former Members and judges. The Speaker supports an external mechanism.

Allard: Commented that he appreciated the comments on limiting the length of the session, and that he had introduced a bill to this effect in the State legislature.

Dreier: Noted that former Senator Howard Baker has talked about the idea of a part time legislature, and agreed that we should have a hard and fast date to finish sessions.

Emerson: Commented that there were periods in his lifetime where Congress only met for one half of a year, and that we have to resurrect that.

Domenici: Commented that a bombshell waiting to explode is oversight by Congress of the executive branch, of programs Congress has created.

Also remarked that he is not a fan of the General Accounting Office (GAO). They ought to be audited and should have peer review. We should know that they are non-partisan and that they are properly spending our money.

How could we cajole or coerce committees into doing more oversight in a regularized way, and not just perform the small amount that the appropriators do?

Bond: Agreed. Stated that the savings and loan crisis had gotten out of control, and that Congress had to go to an outside panel because the Banking Committees had lost control.

Stated that he could not agree more regarding the GAO, and that he has had several run-ins because the workmanship of GAO was sloppy. Suggested that auditors not connected with any particular firm should do a thorough review of the work of GAO.

Remarked that it is the responsibility of both the authorizing and appropriating committees to do oversight.

Suggested that programs could sunset if not reauthorized, and that the sunset dates could be staggered.

Senator Charles E. Grassley

Remarked that in his efforts to get Congress to follow the laws that it passes for all other institutions, he has not made any friends in Congress. President Clinton summed it up nicely in saying that it is wrong for Congress to put requirements on businesses and employers and then exempt themselves. Congress forgets what it is like by being in Government and not on the receiving end of the laws that it passes.

Stated that the Senate is now covered by the Civil Rights Act, due to an amendment of his, but that it is still exempt from several other laws of general applicability. The framers certainly did not have this in mind. Also, the citizens of the republic are not willing to tolerate Congress being exempt from the laws it passes. I am happy that the family leave bill includes coverage of the Senate.

Noted that there is a Senate task force on congressional coverage, and asked why Congress should not be subject to full judicial review in resolving disputes. If it is better to handle these issues in-house, then this requirement should be imposed on other employers.

Regarding the committee system, it is a dilemma that the Members are expected to be generalists but also to be specialists. They must match the expertise of the executive branch, which expertise comes from service on committees. However, Members generally serve on committees as long as they want, which compromises the system of checks and balances.

Suggested limiting service to eight years on a particular committee. After four years off the committee, a Member would again be eligible to serve on it. He stated that he had introduced legislation to this effect in the 102nd Congress, but not yet in the 103rd. If term limits come up in Congress, this issue of limiting service on committees to a certain number of years could be discussed at that point.

Benefits of rotating committee memberships include that: 1) spending would be reduced, because not as much money would be spent on particular interests, but rather on general, national ones; and 2) Members would get expertise on many issues that they otherwise would not get. With knowledge of more policy issues, Members would become better legislators. Also, with public distrust of Congress, many voters are concerned with term limits in Congress. Term limits on committees will go a long way towards addressing this concern.

We will tend to focus more on national rather than on special interests, if we have short committee tenure.

He asserted that the nominations and confirmation process is not working. The hearings are too often destructive of the nominee and hearings are repetitive. I have no answers, but we need to bring more order to the process. I will continue to think about these issues and will share ideas with the Committee.

### Questions and Answers

Boren: Have you provided a list of laws that Congress is exempt from?

Grassley: I will definitely state in a letter to the Committee which laws Congress is exempt from.

In response to a question from Representative Allard, Senator Grassley stated that the speech and debate clause is nothing that we should be concerned about.

Dreier: Remarked on the issue of Congress living under the laws it imposes, and asked whether Congress should have to live for one year under a law, then later impose it on other employers?

Grassley: Stated that assuming the law is constitutional, then Congress already is living under it.

### Senator Hank Brown

Described how there is very little discussion in committee, and suggested the elimination of proxy voting to correct this problem. Other suggestions to alleviate the problem included getting rid of the overlap among committee sessions and between committee and floor sessions. These would be necessary to make viable prohibiting proxy voting.

Suggested limiting members to two committee and subcommittee assignments each, and reducing the number of committees and subcommittees. Suggested establishing two groups of committees -- "A" and "B" -- not based on the present so-called A and B committee groupings. The A committees could meet on Mondays, Wednesdays, and Fridays, and the B committees could meet on Tuesdays and Thursdays, to virtually eliminate overlap. Every Member could be assigned to one A and one B committee.

Eliminating proxy voting would make an enormous difference. Getting people in a room is key to working things out, but this does not happen much now.



Asserted that it is very important to go back to non-partisan staff. Probably this can not be done completely, but a certain portion of staff could be non-partisan.

Stated that the categories in the appropriations cycle should correspond to the categories in the budget cycle. This leads to a common language, which is important.

Currently separate views are not allowed in the Appropriations Committee, for some reason, but they are allowed in all other committees. No one knows why, although inquiries have been made. Separate views on appropriations measures have merit and should be allowed.

Remarked that he has views on term limits, but that the Committee has already heard about this issue.

### Questions and Answers

Boren: Non-partisan staff requires real comity between the ranking member and the committee chair. As Chair of the Intelligence Committee, I hired non-partisan staff in cooperation with the minority. The Committee was 1000% better than if it had partisan staff.

Stated that he wished that amendments would be written out.

Remarked that he would gladly give up assignments if it would improve things.

Agreed that Members do not sit down and legislate together. He cited one example where this did happen, but it was a rare experience.

Domenici: Asked whether part of his frustration is that committees and subcommittees are not doing their work for a variety of reasons. Senator Byrd said that fractured attention is the problem. But what do you see as the effectiveness of committees in the areas of oversight and legislating?

Remarked that he does not know of any Member that does not think that the deficit is a disgrace. Congress has not set limits on itself. Congress is unable or unwilling to live within a single budget. There has not been a single year in the past several decades where we have cut spending. Ultimately, it is a conflict between the legislative and executive bodies. Estimates of deficits have always been distinct. Congress and the executive need to use the same estimated if assumptions are to be realistic.

Allard: Remarked that the important committees do not allow proxies, and advocated that if committees want to be important they should get rid of proxies.

Inquired as to whether there are non-partisan areas where House and Senate duties could be combined, thereby eliminating staff and money.

Brown: There could be a core, non-partisan, professional staff. Developing symmetry in House and Senate committees would go a long way to getting the House and Senate to work together, and would help create a non-partisan staff.

Observed that our staff is nine times bigger than that of any other country. To some extent, staff have gotten in the way of good legislation. A simple effort to reduce staff would yield results, as would a move towards non-partisan staff.

Boren: Advocated reducing staff by a minimum of 25% over the next four years.

Dreier: Should we have attendance for committee hearings and meetings printed in the Congressional Record, so that attendance there is as well known as attendance on the floor? Many Members "kill themselves" to attend during votes of the chamber.

Brown: Having that information available would be of value. If proxy voting were eliminated, and attendance for voting in committees is made so important, we would need to develop some sort of a schedule of hearings. This would be critical.

Dreier: Eliminating proxy voting will get people more focused on the issues of committees.

Brown: Agreed.

Boren: There will be far fewer committee meetings and unnecessary absences, if a rule eliminating proxy voting is adopted.

## HEARING SUMMARY, FEBRUARY 4, 1993

## Forty-one Witnesses:

Representative David Price,  
Representative C. Christopher Cox,  
Representative Dick Zimmer,  
Representative Dana Rohrabacher,  
Representative Michael N. Castle,  
Representative Bill Goodling,  
Representative Ike Skelton,  
Representative John Edward Porter,  
Representative Earl Hutto,  
Representative E. Clay Shaw Jr.,  
Representative Joel Hefley,  
Representative Jim Bacchus,  
Representative Dave McCurdy,  
Representative Porter J. Goss,  
Representative Patricia Schroeder,  
Representative Thomas M. Barrett,  
Representative Christopher Shays,  
Representative Dick Swett,  
Representative David Mann,  
Representative Jay Dickey,  
Representative Fred Upton,  
Representative Romano L. Mazzoli,  
Representative Scott L. Klug,  
Representative John A. Boehner,  
Representative Charles H. Taylor,  
Representative John T. Doolittle,  
Representative Jim Nussle,  
Representative Rick Santorum,  
Representative Karen Shepherd,  
Representative Eric D. Fingerhut,  
Representative Ronald K. Machtley,  
Representative Jack Quinn,  
Representative David Mann,  
Representative Roscoe G. Bartlett,  
Representative Michael D. Crapo,  
Representative Paul McHale,  
Representative Bill Zeff,  
Representative Tillie Fowler,  
Representative Charles T. Canady,  
Representative John Linder,  
Representative Jay C. Kim.

[The Committee convened at 10:00 a.m.]



### Representative David Price

The policy frustrations and failings of the early 1960s suggested the need for a performance-based critique and reform agenda, a need that was lessened but not removed by the post-1964 spate of congressional productivity. This "strain of reform" helped produce numerous positive changes, particularly after the arrival of the post-Watergate class of 1974: the reining in of the House Rules Committee and its establishment as an arm of the leadership; strengthened leadership control over committee assignments, bill referral and floor operations; and a measure of accountability by committee chairmen to the party caucus.

The reforms of the 1970s were not driven solely by a desire for efficient and responsive policy-making; other goals, most notably a desire to democratize the chamber and to distribute authority and resources more widely, also fueled major changes.

Today, self-styled proponents of reform make the task of the Joint Committee especially difficult. There exists today a particularly virulent strain of institutional criticism, what is sometimes aptly termed Congress-bashing. Such criticism actually helps prevent positive change. One suspects that many contemporary congressional critics are aiming not for a more assertive, competent institution, but, rather, for the opposite.

Nevertheless, there is a need to mitigate the "endless scramble" for campaign funds, and to place the management of Congress on a more professional and businesslike footing.

It is important to remember the earlier reform agenda aimed at a stronger Congress, holding its own with the executive branch in the constitutional balance of power and producing good public policy. This is the kind of reform that is threatened by the Congress-bashers and by their preferred nostrums such as congressional term limits and the line-item veto.

A positive formula for change would attend to the need for strengthened party operations in Congress. There is need to strengthen party leaders' capacity to develop and promote a policy agenda and to nudge committee decisionmaking in consistent directions. Party caucuses need to be strengthened as organs of policy discussion and debate; the leadership must be enabled to overcome committee fragmentation and parochialism in bringing proposals to the floor; and strong vote-gathering operations must be maintained.

The Committee should consider changes in the operations of committees. The pendulum has swung too far in the direction of diffusion and decentralization, and a reasonable consolidation can save money, reduce Members' overextension, encourage a focus on general rather than particular interests, and increase the overall coherence of policy-making.

The Committee needs to revisit what proved to be the most difficult and least successful reform effort of the 1970s: the simplification and rationalization of committee jurisdictions.

The present system's scattering of jurisdiction over key policy areas (particularly those, such as energy and the environment, that have come into prominence since the jurisdictional lines last were drawn), its generating of overlapping and competing claims, and its provision of multiple checkpoints for obstruction and delay have gone far past the point of diminishing returns.

A minimalist strategy for resolving the jurisdictional morass would concentrate on resolving House-Senate disparities. Whatever one thinks of the jurisdictional divisions among the Appropriations subcommittees, the worse sorts of problems are avoided by virtue of the fact that the Appropriations subcommittees in the House and Senate have the same jurisdictions. To approximate that degree of synchronization among standing committees in the House and Senate would be a major step forward.

The Joint Committee should examine the way committee and subcommittee leaders are chosen. It might be possible to allow Members of equal full committee seniority to contest subcommittee chairmanships when they initially become available.

The key litmus test for any changes is whether they would leave Congress stronger and make it a more competent and effective institution able to produce better policy.

### Questions and Answers

Hamilton: Given the 1974 committee jurisdiction impasse, what is your political sense on tackling rationalizing committee jurisdictions this time around? Is it too tough?

Price: I wouldn't approach this task from ground zero. I would support coordinating the standing committees between the chambers the way the Appropriations committees are coordinated. But yes, the Joint Committee should tackle jurisdictions.

Dreier: What are your thoughts on reducing the number of committees?

Price: This is definitely a problem, more in the Senate than in the House. Cutting out the select committees makes sense. Cutting the numbers of subcommittees makes sense. I would support the subcommittee reduction that we have done so far, especially cutting minor committees. But loose talk about there being too many committees and subcommittees needs to be kept in perspective. The committees and subcommittees are important but their numbers and jurisdictional conflicts have gone beyond the point of diminishing returns.

Spratt: What are your thoughts on the current two-step authorizing-appropriating process, and on biennial budgeting?

Price: I'm not sure putting appropriations on a two-year cycle is a particularly good idea. I'm also not sure a two-year budgeting cycle is a good idea. In the states, off-year appropriations sessions often blossom into full-blown appropriations. The budget process needs to be more long-term, but it shouldn't be a two-year cycle.

Spratt: If committee jurisdictions are rationalized, one risk is that the membership would become stratified. The present mix makes sure that legislation is not tilted. If there was an environmental committee, isn't there a risk that it could turn into a strong advocacy committee?

Price: This impulse should be countered; balance should be maintained and a broader view should be encouraged. The committees and their members should not be too narrowly focused.

#### Representative C. Christopher Cox

The focus should be on the budget process. The chronic failure to balance the budget is the inevitable result of a poorly designed congressional budget process, which not only permits but encourages violations of the very laws designed to force rational choices among competing priorities.

Cox's plan is contained in the Budget Process Reform Act. It would require that Congress enact a legally binding budget (in the form of a joint, rather than a concurrent, resolution) by May 15 of each year. Until the budget is signed into law, no authorization or appropriations bill could come up on either the House or the Senate floor. The budget would set ceilings on all federal spending (except Social Security and the interest on the debt) for the coming fiscal year.

The budget will fit on one page--setting specified ceilings on government spending within the 19 summary categories currently used in the budget.

Congress would be permitted to enact spending legislation in excess of the budget ceilings only by a supermajority vote.

Because Congress would be required to determine the desired level of spending for each federal program except Social Security and the interest on the debt, open-ended "blank-check" appropriations--such as those for entitlement programs, which authorize the spending of "such sums as may be necessary"--would no longer be allowed.

The President gets a "line-item reduction." Waiving the Budget Act is no longer permitted.



The Act provides a safeguard against the contingency that Congress should fail by October 1, to complete action on appropriations for any program or activity.

#### Representative Dick Zimmer

He is a strong supporter of reforming the budget process, restructuring committees and staff, improving floor procedures, increasing congressional accountability, etc.

His principal reform proposal, "simple, yet potentially powerful," is the single-subject rule for legislation -- a rule requiring that each bill contain only one subject.

This rule would help Members know what they're voting for by eliminating the confusion that results from a number of unrelated bills "being cobbled together." It would prevent Members from having to vote against a bill they support because an unrelated provision they oppose is attached, or vice versa. It would prevent some Members from building a majority for a "bad bill" by attaching other Members' pet bills to it. It would make Representatives more accountable to the constituents by making their voting records more comprehensible.

Some form of a single-subject rule exists in 41 of the 50 state constitutions.

#### Representative Dana Rohrabacher

He is most concerned about the two step authorizations-appropriations process; this is a duplicative system. Since 1974, the Appropriations Committees have been the cause of too much pork, and the committees have become essentially meaningless since they repeatedly ignore authorizations ceilings. Substantive law is being made through the appropriations process.

Currently, the primary function of Members of Congress is to be the in-house lobbyists for the interests that are represented in the Appropriations Committees.

The authorizations and appropriations process should be merged.

#### Representative Michael N. Castle

Congress should outline a clear agenda each year.

With respect to committees, the number of committees and subcommittees and their staff should be reduced. There needs to be better coordination in scheduling committee and subcommittee meetings. To accomplish this a

centralized computer scheduling system should be developed. Multiple referrals should be ended. The terms of committee chairs and ranking minority members should be limited. Membership on committees should be rotated. Also, proxy voting should be ended. Finally, special joint congressional committees with responsibility for key pieces of legislation should be established.

The legislative day should start earlier. More time in session on the House floor should be dedicated to debating priority legislation. The Committee of the Whole should be abolished. Every bill and committee report should be made available to Members 48 hours before chamber action.

The budget process should be revamped; the budget resolution should be binding and unauthorized appropriations should not be protected by closed rules.

Congress should eliminate automatic cost of living increases for all entitlement programs, except Social Security.

Congress should eliminate more perks and privileges, for example, unsolicited mass mailings.

Congress should be subject to the laws it enacts. There should be no double standard exempting Congress from laws that all other Americans must comply with.

#### Representative Bill Goodling

Believes the fact that Congress has exempted itself from laws it imposes on the private sector is just another symptom of how out of touch it is with the real world. To suggest that Congress can know what labor laws are good for the private sector and impose these burdens without being subjected to them ourselves is not satisfactory for an institution that is supposed to represent all the people.

He is in favor of abolishing the select committees. No Member can dispute the merits of the subjects examined by the select committees. However, it can be argued that precious funds can be used in a more effective manner.

He makes it clear that he is not anti-senior citizen or anti-children, youth and families, and not pro-hunger or pro-drug abuse. Instead, he is pro-reform and anti-bureaucracy.

#### Representative Ike Skelton

The Joint Committee should focus on reforms that will save the Members time, and allow them the opportunity to think and to reflect on problems and issues. There are four subsets of this issue:

1. There is a need for more predictable floor scheduling and a more "family friendly" work environment.
2. Too much legislative time is taken up with commemoratives. This should be delegated to a presidential commission.
3. There should be time limits on multiple referrals.
4. The select committees are too expensive; they should be eliminated.

#### Questions and Answers

Dreier: Notes that the framers wanted certain government institutions to be deliberately inefficient. Congress must be careful that things are not so streamlined that legislation is rushed through.

Skelton: Members just need to have more time to consider legislation, write their own speeches and rely less on staff. They need more time for reflection.

Dreier: Should the Committee consider a major reduction in the number of staff and a reduction in the number of committees? This would give Members the opportunity to better reflect on important matters.

Skelton: Members can use the work product of staff to allow them to think and reflect.

Dreier: Are you prepared to make some of these tough decisions? Are we going to make major reductions in staff and the number of committees?

Skelton: We have already cut back on the number of committees. We need to make this place more responsive. The best way to do that is to give the Members more time for reflection.

#### Representative John Edward Porter

Defends the work of legislative service organizations (LSO's) and urges that they not be abolished. They provide a creative outlet for policy interests, especially those of the minority. Porter is Co-Chairman of the Human Rights Caucus.

Argues that the LSO's have evolved to fill a niche and meet the unmet needs of their members; otherwise -- because membership in LSO's is purely voluntary and driven by demand -- they would not exist. He does agree with some of the criticisms that have been made of the LSO's and believes that certain reforms are needed to ensure that there are no violations or exceptions in the conformity of LSO's with House rules.



Porter also supports a six-year limitation on the amount of time a Member may serve as Chairman of a committee or subcommittee. Such a change would make the House more dynamic and responsive, something lacking when a Member can chair the same committee for 10 or 20 or 30 years, building independent relationships with special interest groups and the bureaucracy.

### Questions and Answers

Dreier: I'm pleased to hear that there will be a debate on reform of the LSO's. I respect the work that they do but I would advocate their elimination.

Dunn: Your [Porter's] comments on term limits are interesting.

Porter: Amending the rules with respect to term limits of committee chairs would create a more dynamic body.

Dunn: Do the committee chairmen hire the staff?

Porter: The chairman has the right to hire the staff, but often keeps the old staff on because of their knowledge of the issues and institutional memory.

### Representative Earl Hutto

Supports the work of the Joint Committee and notes that respect for Congress has reached a low ebb. Suggests the following:

1. Provide for a longer budget cycle; two years would be a good idea.
2. Cut down the number of committees and group them, as they do in Florida, to make scheduling easier.
3. Create non-partisan staffs for the committees.
4. Extend the terms of House Members from two to four years.
5. Enact campaign spending limits. Continue to allow PACs but limit the amount a PAC can give to a candidate.
6. Allow enhanced rescissions.

### Representative E. Clay Shaw Jr.

Supports Representative Porter's testimony. Supports rotation of committee members. Staff should also be rotated.

There is need for reform of the informal caucuses and LSO's. Caucuses are not audited, yet they take taxpayers' dollars.

### Representative Joel Hefley

Notes disdain among the public for Members of Congress. Members get no respect. Most Members are trying to do what's right but that's not being conveyed because the system "eats us alive;" we need to change.

One problem is that of one party dictatorship in the House. The Joint Committee should look at the role of the minority and give them more of a part in policy making. Power is too concentrated; there is an arrogance of power. Refers to the old saying that the job of the minority is to show up, make a quorum, and collect its pay. Specifically recommends:

1. End proxy voting. The American people cannot understand how you cannot be present and still vote. Hefley's practice is not to give his proxy to the ranking minority members of his committees.
2. Change the practice of joint referrals.
3. Would favor term limits for committee membership; would be willing to rotate off Armed Services.
4. Congress should include itself in the laws it passes for others.

### Questions and Answers

Dreier: Agrees with the point on proxy voting. This change could go hand in hand with a rule on committee term limits.

### Representative Jim Bacchus

The class of 1990 played a pivotal role in creating the Joint Committee and supports the work of the Committee. He supports the following changes:

1. Eliminate the exemption Congress gives itself when it passes laws for others.
2. Improve open meeting rules. The rule is riddled with loopholes. Notes that committee votes on authorizing the space station were made in executive session. Recommends that committees should only be closed because of national security or testimony that might defame an individual.

3. Improve financial disclosure rules. There should be more detailed disclosure, specifically, annual net worth statements and disclosure of tax returns. Bacchus will introduce legislation to implement these proposals.

#### Representative Dave McCurdy

His ideas are aimed at efficiency and accountability.

Cites the need to reform the House committee structure. Notes that prior to the start of the 103d Congress, the average Member served on seven "various panels."

Committee jurisdictions remain outdated and improperly aligned to respond to current policy challenges in a timely manner. Notes that the comprehensive energy reform bill in the last Congress originated in the Energy and Commerce Committee but then was referred to eight additional committees.

Also proposes to limit the terms of committee chairs and ranking minority members and make them appointed by their respective party leaders in the House.

Also supports creating a mechanism to insure congressional compliance with all labor, civil rights and other employment-related laws.

#### Questions and Answers

Dreier: What do you recommend as the numbers of committees and subcommittees that would be appropriate?

McCurdy: You could reduce the number of committees by a third or a fourth. This would create large, in terms of membership, committees, but you could create enough subcommittees so that this factor would be mitigated. Proxies should be done away with. We could develop a new committee system based on the kind of roles and mission exercises that the military goes through. Our jurisdictions are too artificial. We need to start from the ground up. The Joint Committee has the opportunity to do something that will outlive this session of Congress. It is time to change the structure of the way we operate. We are becoming irrelevant to the American public.

Boren: Favors rotating the chairs of the committees. Six years was enough for him when he served as Intelligence Committee chairman. Committee chairs should not become too comfortable with the interest groups; there could be a tendency for the committee to become too institutionalized. We have become unwilling to try new ideas or to bring freshness to the institution. Boren would also support a commission regarding commemoratives. Jurisdictional reform is also needed. It is difficult for the President to have a partnership with Congress when we have the current system of overlapping jurisdictions.



McCurdy: The model of the military base closure commission could be a useful model for a mechanism to reform the committees.

Boren: He would support a major, bold piece of reform legislation. Let the American people know that this is what we are going to do and let Congress vote on it. If we don't reform Congress this year, we will have term limits and Congress deserves to "be blown out of the water."

Dunn: One emerging theme of these hearings seems to be limiting the terms of committee chairmen. What are your thoughts on this?

McCurdy: Supports limiting tenure on committees. In this fashion, you can hold the leadership accountable. Regarding staff, the Intelligence Committees had one of the smallest staffs in Congress, small but highly professional. Term limits might vest too much power in the staff; better to limit the staff internally rather than externally.

#### Representative Porter J. Goss

Makes four points:

1. The House Ethics Committee should operate independently and be non-partisan.
2. The rules regarding the release of classified information should be reviewed.
3. Restore Congress as an institution dedicated to public service, not self-service.
4. Supports Boren regarding a comprehensive reform bill this year.

#### Representative Patricia Schroeder

1. Congress should place itself under the laws it passes for everyone else.
2. Childrens' issues need to be supported. The House, unlike the Senate, does not have the necessary work groups to consider childrens' issues. Proposes that in the four major committees that have jurisdiction over children, there should be at least one subcommittee to look at childrens' issues.
3. Would create a subcommittee that would combine children and aging so that generations would not be pitted against one another.

Representative Thomas M. Barrett

There should be a law to prohibit Members and staff from receiving anything of value from lobbyists. Ninety percent of the people in this country support this idea. This proposal works in Wisconsin and could work here. We would come closer to the our constituents by not accepting things that are not available to the general public.

Representative Christopher Shays

Would end the exemption of Congress from the laws it passes for others. To do this he and Representative Swett have introduced the Congressional Accountability Act (H.R. 349) -- 110 cosponsors. This is a simple issue of equity and fairness. Also, these exemptions are the delight of Congress-bashers.

Representative Dick Swett

Supports the Congressional Accountability Act. Notes that he is an architect by training and has worked with and labored under many federal regulations. This experience has led him to believe that Congress will be better off if it is required to cover itself under the laws it passes.

Representative David Mann

Supports the Congressional Accountability Act because if his daughter, who is hearing-impaired, were to apply for and be denied a job on Capitol Hill, she could take no action for redress under the laws that would apply to her in either the private sector or the executive branch of government.

Representative Jay Dickey

Supports the Congressional Accountability Act.

Questions and Answers

Dreier: All of us are working for passage of the Congressional Accountability Act.

Boren: Supports covering Congress with the laws it passes for others. Fairness to individuals requires that Congress cover itself.

### Representative Fred Upton

Supports franking reform. Notes that when he is home in Michigan, people ask him why Congress needs so much money for the mail, and they point out that the mail is a powerful incumbent advantage paid for by the taxpayers.

Notes that through the years he has spearheaded various bi-partisan efforts to cut the franking allowance. This resulted in getting \$20 million in rescission in the franked mail budget as part of the FY92 rescission bill.

Has introduced H.R. 549 which cuts each Member's official mail allowance in half and requires that at the end of the year, all unused franked mail funds go to deficit reduction, and do not get reprogrammed to other accounts.

Also supports a major revision of how Congress considers commemoratives.

### Questions and Answers

Boren: Did not know that when money from office accounts was turned back it did not go to the treasury, but in fact was turned around. Comments on abuse of the frank were also well taken. Action has been taken in the Senate to virtually eliminate newsletters. He has never received a letter from a constituent complaining that he or she did not receive a newsletter.

[Recess from 12:50 p.m. until 2:05 p.m.]

### Representative Romano L. Mazzoli

Observed that there was "nothing new under the reform sun," but wanted to focus his testimony on the power of party and chamber leadership. Quoted Majority Leader Gephardt, "Before we solve our problems, we're going to have to break some glass." Urged the Committee to put together a tough package that "disturbs people," and puts "burrs under our saddles," and breaks up fiefdoms." If not tough enough, the reform package won't do enough or go far enough.

His specific recommendations included: making Congress subject to the same laws as the executive branch and private sectors; reforming the franking laws to continue their communications use but to limit their impact as campaign literature; and paying for services (such as National and Dulles Airport parking) at fair market prices.

With respect to committees, suggested limiting Members to only one or two committee assignments, and to even fewer subcommittees than the new Caucus rule permits. Supported a ban on proxy voting, as proxies would be less needed with Members having fewer committee and subcommittee assignments and scheduling conflicts.



Endorsed more predictable chamber session scheduling, favoring a five day work week followed by a three day work week (presumably on Monday, Tuesday, and Wednesday) to allow Members a regular, longer block of time in their districts.

Biennial budgeting would "end this wrangling every year" over appropriations and authorizations. He endorsed in vague terms some possible merger between authorization and appropriations jurisdictions.

### Questions and Answers

Allard: On family leave bill, Congress was exempted from its coverage. What is your view on this latest exemption?

Mazzoli: I support my party on this bill, but I would have supported coverage, and I have endorsed Representative Petri's efforts to bring Congress under coverage. "We look hypocritical.. we can make compelling justifications for (our) exemption," but exemptions "are not compelling to American people."

Allard: Madison believed that Congress would not be exempt from the laws it passed for the country. Should we pay for airport fees out of personal funds, or from official funds?

Mazzoli: Believed payments should be from personal funds, not official. Convenient parking is defensible, but we should pay for what we get.

### Panel Presentation by "Gang of Six"

#### Representative Scott L. Klug

Summarized the evolution of the group's goals during the 102d Congress. They decided to go public when their efforts for internal reform were unsuccessful. Some may have objected to "bombthrowing" tactics, but then and now their goal was to make the Congress more effective.

He related an anecdote about a school child who asked about his limousine and whether he [Klug] would let him ride in it. The mere question said much about Congress and public perception of it.

The "gang" has suggestions on committee reform, administration, waste-fraud-and-abuse. Congressional costs and staffs rose dramatically over the past thirty years. Claimed Congress needs to restrain cost growth and impose cutbacks just as the private sector has. Parenthetically, he endorsed efforts to abolish all select committees.

### Representative John A. Boehner

The "Gang of 7" started with a freshman class effort to pass a balanced budget amendment, and the group supported creation of this joint committee. Congress has put itself on a pedestal, separate from people. This can be changed by ending congressional exemptions from laws it applies to others. Criticized "hiding behind the separation of powers" doctrine while denying rights to judicial remedies to Congress' own employees. Congress has one of the worst safety records of any governmental entity. An open and accountable Congress would also be covered under the Freedom of Information Act.

Also supported "serious campaign finance reform," and called for franking reform to curtail the "greatest incumbent protection tool," citing an estimated \$150 thousand per year per Member spent on mailing. Also supported a ban on the use of voter registration lists in congressional offices.

In the area of administrative reform, called for an independent audit of congressional operations and spending, available to the public and clearly written. He commended the new House Administrator and the work of the House Administration Committee in cleaning up some management abuses, but called for further reforms including an end to patronage hiring.

### Representative Charles H. Taylor

In his view, unless Congress and the Administration cut their operational budget, then other efforts at deficit control are doomed to failure. He quoted Ross Perot: "There's plenty of grass out there, but nobody wants to get near a lawnmower." As a newly elected member of the Legislative Branch Appropriations Subcommittee, he observed that there was little sentiment for serious cost cutting there.

He urged consolidation of services and functions within the Congress, observing that there were "too many lawyers" in Congress, citing the House General Counsel's Office, the Office of Legislative Counsel, the Law Revision Counsel, Ethics counsels, franking counsels, as well as legal counsels on all House committees. He urged pooling legal advisory services into a central facility.

Criticized overlapping and duplicative services among joint committees and other joint support entities, including the Joint Economic Committee, the Joint Taxation Committee, CBO, OTA, GAO, CRS, and others. They overlap, but they do the same thing differently. Each has its own constituency. Under conditions of fiscal surplus, Congress can afford overlap and redundancy. With a massive and continuing deficit, it cannot.

### Representative John T. Doolittle

Right now, we have more government, but less to show for it and the House of Representatives is in danger of becoming irrelevant. Many state legislatures work better than the House. In his own State legislature, Members were required to be present on the floor during debate to learn from each other. It is common here in committees for only one or two Members to be present. Reported that he personally had been "missing appointments all day" [on the day of his testimony]. Generally, House Members are "just doing what we can to make ends meet."

Supported reduction or outright ban on closed or restrictive rules and on self-executing rules. In the mid-70's, 90% of rules were open; last Congress only 34%. Congress "can't be afraid of controversy," and closed rules show that fear. Was distressed that the Rules Committee banned him from offering an amendment on a water project slated for his own district, while allowing another Member not from the region to offer an amendment on the project in California.

To improve deliberation and debate quality, supported having committees meet at separate time from floor sessions, and prohibiting committees and subcommittees from meeting at the same time.

[Committee stood in recess from 2:40 p.m. until 3:05 p.m.]

### Representative Jim Nussle

Remarks focused on budget process and deficit-related issues. The size of the deficit shows need for reform. Urged eliminating some "tools of trade" abetting deficit: ban continuing resolutions; suspend Member pay if spending bills are late; end legislative provisions in continuing resolutions; end budget and spending baselining in order to undercut the inflation mentality. Supported granting the President greater rescission authority, establishing a five- or ten-year budget planning process, and urged pay cuts for Members of Congress in years of deficit.

On scheduling and time management, declared only half of the legislator's job is in Washington. Described a need to resuscitate the "citizen legislator" concept. Sessions should be limited to the start of the fiscal year, and then go home, with pay docked for days in session after October 1 (used in Iowa). Supported five day work weeks and better coordination between floor and committee. Would ban floor action during the first 90 days of session and, toward the end of the session, would ban legislative work by committees. Supported roundtable format for committee hearing sessions (similar to Clinton economic summit) to get better interaction among witnesses and Members. This was used in the Banking Committee with good results.



### Representative Rick Santorum

Santorum summarized the views of the group, observing that the "Gang of 7" reacted to circumstances which they faced in the 102d Congress. Noted that most House freshman Republicans in the 102d Congress supported the establishment of the Joint Committee. Discussed a CRS report prepared in December at the request of the group, presenting a variety of reform options with pro-and-con analyses. Praised report and urged Joint Committee members to read it.

### Questions and Answers:

Hamilton: Thanked group for their support in creating the Joint Committee, as well as support from junior Democrats in the 102d Congress. Observed that the Committee will review all the recommendations sent to it, and after the completion of the hearings will decide which to pursue further.

Dreier: Noted that the "Gang of 7" had been giving the House reform ideas whether we wanted them or not. On reducing committees in Congress, how do we do this? Would you and other junior members be willing to reduce the number of committees and subcommittees you serve on?

Santorum: Opposed eliminating Ways and Means since he had just been assigned there, but within that, some Ways & Means subcommittees could be abolished. No reason to have two subcommittees dealing with Social Security-related programs.

Taylor: Abolish Legislative Branch Appropriations Subcommittee, "I know I tried to get off of it." Supported end to all select committees and joint committees as luxuries which can't be justified. End or reduce duplication of effort at all committee levels.

Boehner: There is too much fragmentation. The select committee debate has shown the fragmentation. Building a consensus within one committee is hard enough without having to build similar consensus on two or three other committees. I serve on too many subcommittees. Agriculture and Natural Resources, and maybe even Merchant Marine could be merged together.

Nussle: It would be political suicide for him to suggest the abolition of the Agriculture Committee, but if I explained that major parts of agriculture policy are decided elsewhere, it might be defensible to voters. In reform, jurisdiction is the root of all the evil.

Doolittle: Can't handle the number of committee and subcommittee assignments you have in the limited amount of time available.

Dreier: Generally agreed, but the real issue is how we can craft a majority of 218?

Allard: Commends Nussle for having OSHA come and inspect his office. Encourages Taylor to maintain his focus on legislative operations and costs, and on ending duplicate functions, through work on the Legislative Branch Appropriations Subcommittee. Commended leaders of the Joint Committee for the ban on proxy votes in the Joint Committee's rules.

Taylor: Suggests that enforcement of laws within the Congress be charged against the individual Member---salary or allowance---for violations, not billed generally to government funds.

Panel presentation by Representatives Karen Shepherd and Eric D. Fingerhut, Chairs of Democratic Freshman Reform Task Force

Representative Karen Shepherd

Many new Members campaigned for reform. But there is a wide variety of ideas on how to implement reform. In early organization meetings, we were faced with a wide variety of reforms, some minor such as the name change of the Interior Committee and some controversial, such as delegate voting rights. The Democratic freshmen asked for time to consider, and to offer own suggestions. From this, the freshman task force was created.

Representative Eric D. Fingerhut

Announced that the task force is focusing on four major groups of reform issues: House Rules (one option is Oxford Union debate proposal); the appropriations process task force (roll call votes on all appropriations bills, line item votes on critical appropriations); the seniority task force (limits on seniority, rotation); and ethics and campaign finance reform (bring Congress under laws from which it is now exempt, and presidential and congressional campaign finance rules.) Some proposals will deal with caucus rules, some with House rules, and some require statute. Hopes to consult with Republican freshman group. Proposals from task force due March 31 to the Caucus, and task force hopes to return then to testify on them before the Joint Committee or to submit their proposals in writing to the Joint Committee.

Questions and Answers:

Hamilton: Commended new Members for their initiative. Their fresh perspective added to the quality of the reform efforts.

Dreier: Freshmen are best hope for reform in the 103d Congress. There have been other reform efforts in the past but they lacked the impetus that this historically large group of new Members can reinforce.

Panel Presentation by Representatives Ronald K. Machtley, Jack Quinn, David Mann, Roscoe G. Bartlett, Michael D. Crapo, Paul McHale

Representative Ronald K. Machtley

With regard to reform, the American people want specific solutions to problems, but they don't expect miracles. There are too many committees and subcommittees dealing with tough issues; we can't allow the current level of fragmentation to continue. Reforms should encourage Members to focus their attentions on fewer policy areas. On fiscal issues, the Appropriations Committee should be limited to appropriating, not authorizing. The hearings process can be modernized to contribute to Member and public understanding of issues; less formal committee and subcommittee settings could obtain information more easily and clearly.

Representative Jack Quinn

Ran on platform of congressional reform, including term limits, franking reform, campaign finance and political action committee reforms, among eleven proposals he outlined in his campaign. Wants to work effectively to gain term limitations, but observed that three different groups in Congress [which he did not identify] were working on term limits. If too many work on the subject, nothing will happen, he feared.

Representative David Mann

Endorsed campaign finance reform law, especially the Senate version of the vetoed law of last session. Campaigns and candidates can exist without political action committee money he declared, and all candidates (including incumbents) can still campaign effectively even with tougher overall spending limits. Matching funds and vouchers will even spending between challengers and incumbents, and reforms should also limit funds coming from outside districts, whether from PACs or individuals. Supports term limits and session limits to restore citizen legislator concept.

Representative Roscoe G. Bartlett

Cited recent public opinion polls in which Congress received 19% satisfactory performance rating among other professional groups. According to Bartlett, the "average person sees title of Honorable as a joke." The House is not a deliberative body; Members come to the floor frequently knowing little about what they're voting on. And the House is frequently not in order. We need to have Members spend more time listening on the floor to debate. In general, reform is needed for Congress to regain credibility with the American people.



### Representative Michael D. Crapo

Ran for the House on a platform of change, as did most other freshmen, Democrat or Republican. Quoted constituent letter from the mother of an Eagle Scout who said her son evidenced surprising cynicism about Congress. The mood of the public demands change.

With regard to specifics, generally supports: balanced budget constitutional amendment; line-item veto; placing entitlements on same footing as discretionary spending programs; requiring periodic reauthorization of entitlements; mandatory roll-call votes on all taxes and spending; a complete bar to non-germane amendments in House and Senate (notes House loophole under motion to suspend rules); ending the congressional exemption from labor standards and health and safety laws; limiting the number of committees and the number of committee staff; imposing fair partisan ratios on committees and among committee staffs; banning proxy voting and restrictive rules from the Rules Committee. Summarized data from Don Wolfensberger [House Rules Committee minority staff director] on the growth of restrictive rules since mid-1970s.

### Representative Paul McHale

Comments based on "my thirty days experience". Views 103d Congress as a "once in a generation chance" for reform. Urges applying labor standards and other laws to Congress in a spirit of "democratic equality." Notes that he is a cosponsor of H.Res 349 (Representatives Swett and Shays) to apply OSHA, Fair Labor Standards Act, and Freedom of Information Act, among others, to Congress. Urges systematic review by the Joint Committee of committees and subcommittees: many standing committees have excessive numbers of staff and unnecessary subcommittees. Noted that the effort to abolish select committees ignored the fact that the standing committees have not been subject to the same searching review. Among other suggestions he supported are: a cut back in foreign travel; ending reduced rates for services provided to Members; banning lobbying by former Members for five years. Congress is the best legislative institution in world, he observed, but with reform, it can be better.

### Questions and Answers

Dreier: What committee assignments would you be willing to forego?

Crapo: Serves only on the Energy Committee and only on two subcommittees; would be willing to serve on only one if it would help to improve legislative efficiency.

McHale: Serves on Armed Services and Science, Space & Technology, and on a total of four subcommittees. Observes that membership on committee or subcommittee should be more than a line on office letter head. Recently, he had to attend a hearing vital to the interests of his district at a time when three other meetings were scheduled. Congress would do better allowing Members to serve

on only one or two committees maximum, with only one subcommittee assignment on each. He would be willing to sacrifice some committee and subcommittee assignments in order to do his work better.

Dreier: Urged Representatives Crapo and McHale as freshmen from both parties to go to their class groups together to help build a bi-partisan pro-reform coalition and to explain the reform plans ultimately coming out of the Joint Committee.

McHale: Believed there would be widespread support among freshmen of both parties for reform. In particular, he was convinced that freshmen in both parties want quick action on campaign finance reform. Their past effort at raising money was distasteful to Members on both sides of the aisle.

Crapo: There is a remarkable consensus among both freshmen groups on the reform agenda.

Dunn: Asks questions on committee staffing reforms and term limits to see if bipartisan support extends to these issues as well.

McHale: Supports proportional partisan staffing on committees.

Crapo: Supports term limits for committee chairs.

Panel Presentations by Representatives Bill Zeff, Tillie Fowler, Charles T. Canady, John Linder, and Jay C. Kim

Representative Bill Zeff

Argued against taking action too quickly in the House. Noted that there had been numerous occasions where printed copies of bills, or conference reports, had not been available to Members at the time of a vote. Urged strict enforcement of availability and layover rules to encourage informed debate and decisionmaking.

Representative Tillie Fowler

Voters expect more change in Congress than just the recent administrative reforms. How can Congress truly represent citizens' views if the leaders of Congress serve without limit? Supports broadest possible term limitation proposals, including chairman and ranking member limitations, as well as an overall congressional service limitation. Pleased with Republican conference rule to rotate Republican committee leaders, and hoped Democrats would follow the lead in their Caucus. On other issues, supported Representative Zeff's call for longer availability of bills and reports before floor votes, and a thorough review of committees and subcommittees to determine which are superfluous and to determine where staffing cutbacks can be made.

### Representative Charles T. Canady

Noted that Florida had passed its term limit referendum with 77% voting yes. In general, he supported rules reforms in line with those referendum results: with term limitations on committee chairs and ranking members, committees will follow the "will of people," not the whims of their members or leaders. Observed that committee leaders develop a proprietary interest in and "dominance over a policy area." With permanent committee assignments and leadership, committees become mired in turf battles that are not helpful to policy innovation.

### Representative John Linder

Cites James Madison in "The Federalist" against faction and the spirit of party. Unlimited terms for chairs and ranking members contribute to uncontrolled power. He was the principal sponsor in the Republican Conference of the service limit proposal for ranking members. If such limits were included in House Rules, he could see an end to "uncontrolled power" of committee leaders with the possibility of countering popular demand for general term limits on all legislators. Committee leader term limits would also reduce the power of special interest groups, as they would no longer be guaranteed of a continuing special relationship with committee leaders. Congress needs to be more interested in the future of the Nation, not in perpetuating power. Term limits have become a national priority; without establishing some internal controls on committee leaders, the voters will impose it through referenda against all Members of Congress.

### Representative Jay C. Kim

Among reform areas he endorsed were: committee and staffing reforms; campaign finance reform; and applicability of laws to Congress. Noted that not all new Members support all reform ideas, but most support general goals. In general, he urged reforms that contributed to majority rule with minority protections. Believed there are too many committees and too much policy fragmentation. "How can the Public Works Committee consider comprehensive infrastructure plans for California when it can't legislate on railroads." The Appropriations Committee and its leadership is a small club and too insular. Members should rotate on Appropriations to bring new ideas and new interests. Endorsed efforts to reduce the size of committee staffs ("What do they all do?"). Thought large staffs contributed too much to micromanagement.

Supports rules changes to guarantee more time before floor consideration of bills in order to plan amendments and to consider the substance of issues, and changes to limit or ban restrictive rules.

On fiscal issues, supported a balanced budget constitutional amendment, line item veto, and a supermajority requirement for tax increases. Endorsed term



limits for Members of Congress as equitable in light of the presidential term limit.

### Questions and Answers

Dunn: Praised freshmen Members of both parties for the quality of their suggestions. Can you hold together as a group in favor of reform? Will there be a solid constituency here in favor of reform?

Linder: The current system in Congress has removed Members from active participation. To achieve anything, we need to overcome excessive partisanship. We need to reach across the aisle. Excessive, uncritical partisanship is the biggest disappointment he had encountered so far in Congress.

[Additional Members submitted statements for the record]

[Committee adjourned at 5:15 p.m.]

## HEARING SUMMARY, FEBRUARY 16, 1993

Four Witnesses: Honorable Abraham A. Ribicoff, Thomas Mann, Norman Ornstein, David Mason.

Chairman Boren commenced the hearing by stating that this would be the last hearing on general reform before moving to specific issues. Commented that the Joint Committee has received much "food for thought" from previous witnesses. Introduced and welcomed the Honorable Abraham A. Ribicoff.

Honorable Abraham A. Ribicoff

Commended the 1983 Pearson-Ribicoff report on Senate operations to the Joint Committee. Many of the problems that existed then, exist today.

Reform is possible; today, unlike in 1983, there is clear public interest in congressional reform.

Commented that the Joint Committee should dedicate itself to issues where it is possible to reach bipartisan consensus.

Offered the following recommendations:

1. Congress should establish a legislative agenda.
2. Members should be limited in their number of committee and subcommittee assignments.
3. The issue of campaign reform must be addressed.
4. The visibility of public policy debate should be raised.

With respect to a legislative agenda, stated that the current process approaches chaos, and that Members serve on too many committees and subcommittees. It is impossible to sit on 10 or more panels and give meaningful attention to the work of committees. Also, there are too many hearings; too much time wasted.

A legislative agenda should be established for the House and Senate by the congressional leadership, in consultation with the President, by majority vote of each House. Such proposal is discussed in the 1983 report previously mentioned. It is hard to understand why there would be objection to establishing an agenda. Establishing and following an agenda could avoid late night and Saturday sessions, end of the session rushes, the minority's concern with being surprised, and situations in which Members must vote on complex and controversial legislation with little or no advance notice. Also, there would be less concern over procedural reforms, if an agenda were established.

Remarked that if the Joint Committee does nothing more than enable Congress to take hold of its schedule, then it will have made a significant contribution.

With respect to the number of assignments, commented that there are too many committees and subcommittees and Members have too many assignments. Abolishing committees and subcommittees is a change the Joint Committee must consider. Much of the concern might be abated by preventing Members from serving on more than a limited number of committees -- with the limits enforced.

Observed that proposals dealing with jurisdictional realignments warrant the Committee's attention.

With respect to campaign reform legislation, stated that the cost of campaigns has reached obscene proportions. The need to raise tremendous amounts of money for campaigns fuels the notion that special interests run the Congress. Another problem is that the cost of campaigns keeps good people from running for office. Stated that he supported proposals that Congress had passed last year, to limit campaign spending, PAC contributions, and the franking privilege. These ideas should be supported by Congress.

Remarked that the negative tone of campaigns was of great concern.

Noted that in the past the campaign reform debate has broken down over claims that one side of the other sought unfair advantage through reform, but that in fact there is room for agreement on many issues.

With regard to raising the visibility of public policy debates, agreed with Senator Byrd that Congress has ignored its responsibility to inform the public, and has ceased to be a forum for great public policy debates. This is both a House and Senate problem. The public dissatisfaction with Congress in part stems from a lack of understanding of what it does.

Discussed the need for increasing the visibility of public policy debates, and for scheduling debates on important issues in prime time so as to reach a wider audience. With a real agenda for Congress, there will be real debate.

### Questions and Answers

Boren: Commented that he was intrigued by his proposals. Stated that there were many common areas of agreement between the parties. Agreed that Members can not serve on too many committees and therefore the number of committees and subcommittees should be limited.

Ribicoff: Agreed with the Senator.



Boren: Commented that staff size and unnecessary hearings make more work, that there were overlapping jurisdictions, that conference committee sizes were increasing, and that it is difficult for the President to work with a fragmented Congress.

Stated that the number of committee assignments needed to be reduced along with the reduction of committees and subcommittees and that jurisdictions needed to be fixed.

How, from a political point of view, do we go about this process and achieve success? Should we establish a target number of committees?

Ribicoff: Responded that the members of the Joint Committee carried a lot of clout and that Congress will go along with them. Members of Congress realize that there is a low appraisal of Congress from the public who want more from their representatives. Stated that much could be accomplished by bringing a consensus together.

Boren: Gave a historical perspective on the number of committees and subcommittees. Stated that it was reasonable to sit down and come up with the figures.

Ribicoff: Advised to make sure each Member received one good committee assignment, something that is good for the people back home, so that there would be equality among the Members. Asserted that the staff runs the committee when the Member is overloaded.

Lugar: Stated that there is the perception that because the people want so much, members "battle to the death" on every issue. Gave an example from the Senate. Is this what constituents feel we should be doing or is it foolish?

Ribicoff: This should be stopped. Voters are savvy and intelligent. The people are unaware of the complexity and importance of the issues and Members should be their teachers. The respect of constituents can be achieved without making a grandstand play for them.

Lugar: Commented that in the Senate, working with the President on an agenda would only work if Senators were very thoughtful regarding their use of the Senate's rules. How can Senators be restrained from using the rules to benefit their constituents, so as to make an agenda work?

Ribicoff: Anyone who would need to be restrained has a bad attitude and does not deserve to be a Senator. A consensus must be reached. Senators must sit down and talk and work it out.

Domenici: Agreed that the number of committee assignments must be lessened, but to just discuss that was not enough. Needed to address the issue of overlapping jurisdiction.

Ribicoff: Suggested a reorganization of the Executive branch to account for overlap in the agencies. Mentioned how when he was Secretary of HEW, every committee owned a piece of him. Acknowledged that it would take a separate commission to look at the executive branch. Then committees could be coordinated with the Executive branch to make sure that they are talking together and working with one another.

Emerson: Remarked that interruptions and distractions can hurt the quality of Congress' work. Stated that he was "toying" with the idea of suggesting scheduling floor sessions for a few weeks, then committee meetings for a few weeks, so as to free Members from distractions and interruptions. Thought that the idea of a legislative agenda can incorporate this.

Restated Senator Bryd's concern that Members would not be in Washington unless there were floor meetings with votes scheduled. Should mandatory attendance be imposed?

Ribicoff: Stated that Bryd's proposal that Congress work in D.C. for three weeks of the month and then spend one week in the home district was a good idea.

Emerson: Mentioned that the Senate has adopted this format and agreed that it was a good idea.

Ribicoff: Suggested holding hearings in the morning and floor sessions in the afternoon.

Commented that the people expect more from Congress and this was an opportunity to lift the esteem of Congress. This is the "opportunity of a lifetime" to do something good for the House, for the Senate, and for the United States.

Dunn: There is a desire to simplify the budget process. Are your proposals from 1983 still good?

Ribicoff: Stated that the Budget Committee should be made up of the members of the Appropriations and Finance Committees. The two groups responsible for the budget and deficit would then be one.

Walker: Commented on restructuring committees along the lines of the Executive branch. Expressed concern that the Executive branch is not organized that well now.

Ribicoff: Stated that it was time to take a look at the Executive branch because the overlap there complicates the congressional committee work. Perhaps we could reorganize the Executive branch, then match up that structure with the committees. Suggested that it is worth working on ways to reorganize both Congress and the Executive branch.

Dreier: Agreed that this was the "chance of a lifetime." Noted that with the end of gridlock -- different parties in control of the Congress and the Executive branch -- some say that reform may not be as important.

Ribicoff: Does not know if gridlock has ended. Mentioned that the President was seeing dissent in the Senate. The Joint Committee, however, has an opportunity to straighten things out.

Dreier: Stated that Congress may not accept the suggestions of the Joint Committee. How can we ensure that this opportunity to reform does not slip away?

Ribicoff: A good policy will ensure public support which will turn into ayes.

Lott: How do we deal with the Ethics Committee in the Senate and its reform? You were the conscience of the Senate, do you have any ideas?

Ribicoff: If something is wrong, you have the responsibility to deal with it. It is an unhappy problem, but you are going to have to deal with it. Stated that he did not know of any former Member who wants to sit in judgment. Senators have got to perform this role; it is part of the burden of being a Senator.

Lott: Asked whether, then, the Ethics Committee should be kept in the Senate and reformed.

#### Panel Presentation by Thomas Mann, Norman Ornstein, and David Mason

##### Thomas Mann of The Brookings Institution

Stated that the journey was as important as the destination. The task of the Joint Committee is not self-evident and they must therefore think everything through and weigh the need for reform with its costs and benefits.

Remarked that he is motivated by the desire to strengthen the institution as both a representative and policy making body. Declared that his role is to prod Congress and cast a skeptical eye on cure-all reforms. The institution might need some radical reforms, but advised caution since support for such reforms is often weak.

Declared that 90% of the problems were external while 10% were internal. Congress should not be reformed to get rid of gridlock and make people happy. Congress should be reformed in order to strengthen the institution. Challenged the Joint Committee to show that Congress can seriously deliberate about itself.

Mentioned some of the problems facing Congress:

1. It is hypersensitive to people; Congress should step back from criticism.



2. The tendency to play to the media.
3. Tendency to come to the floor with minds made up and not be open to persuasion.
4. Members are too distracted to get below the surface of issues.
5. There is more concern with issues than with outcomes.
6. Willingness to take positions that strengthen positions at home but do not strengthen the institution.

The big problem is that the public has a democratic critique of Congress but the institution has republican needs.

Stated that committees are a problem and the system needs periodic reform. Cautioned against making jurisdictional realignment the litmus test of success.

The number of committee assignments in both chambers should be reduced. In the Senate, at a minimum the rules should be enforced, and it would be good to work towards two, not three, assignments per Senator. In addition, the number of subcommittees in the House should also be reduced.

Committees should be given equal workloads by the consolidation and restructuring of jurisdictions. Select committees should be abolished.

Ad hoc committees should be used more, and leaders should be empowered to create them.

The format of committee hearings should be reformed. Discussions instead of lectures by witnesses may be useful.

#### Norman Ornstein of the American Enterprise Institute

Commented that in the past there have been successful cutbacks of committee assignments but the rules were soon violated. Stressed that the rules must be obeyed.

Gave history of the Senate Select Committee on Indian Affairs to demonstrate that all select committees should be abolished.

Stressed that although radical reform was a possibility, the costs and benefits must be kept in mind.

Stated that he wanted to make comments in three areas: budget process, staffing, and ethics. Also stated that he had a few thoughts on Senate operations.

With regard to the budget, it serves the nation's needs for government to do things, but the process should not be allowed to overwhelm everything else. Dissatisfaction with the budget came from more factors than just the process. There was 12 years of divided government. There were different agendas in the Houses of Congress and in the Executive branch.

Discussed different models of forming the budget and the pros and cons of each.

Cautioned against reforms that want to enhance presidential power. Against it because we need strong institutions at both ends of Pennsylvania Avenue. For this reason, also against line-item veto. Stated that the idea of expedited rescission is worth looking at. A process which will guarantee votes on rescission is needed. Finding such a process will give power to the President.

A budget resolution will offer the incentive to fudge numbers. It also can not force agreement where none exists.

Suggested looking at the reconciliation process. There is a need for better score keeping rules to ensure honesty. Annually appropriated programs should be subject to reconciliation.

Mechanisms should be found for energizing authorization committees. They have been left out of the process.

Stated that both Houses should consider not letting appropriation bills come to the floor until June.

With regard to staffing, recognized that the staff issue is a tough problem and that there has been a move to cut staff at the executive and congressional levels. The pressure to make across the board cuts should be avoided. This would hurt the lean committees and help the fat ones. Do not make cuts as an economy measure. Make sure that Congress can still fulfill its goals. Saving a few dollars but penalizing Congress' role would be penny wise but pound foolish.

The functions of an office should be considered to determine what cuts to make. Decide how much staff is necessary to fulfill those functions.

Suggested a centralized office for mass mail and case work and cuts in personal staff. Personal office staff in the House could be reduced to 15 per Member, which would not represent a significant change.

Observed that there are many areas in committees that are understaffed. Advised not to make across the board cuts; rather, conduct an audit to see where prudent cuts can be made.

Noted that there are four support agencies, but there is no incentive for Members to think of the cost of making a request since it only takes a phone call, and does not cost the individual Member a cent. A voucher system or an internal accounting system might help limit the cost of requests. Relatedly, used the Office of Technology Assessment as an example of a small core staff that

goes to outside experts as they are needed. Suggested that CRS and GAO might use this same format.

Regarding ethics, stated that the process for dealing with ethics violations is "out of whack." The constitutional responsibility to judge one of your own must be balanced with the time it takes and with the fact that it is a no win situation.

The process can be made better. Recommended that the initial steps be handled by outside people such as former Members, but not judges, chosen from a pool. Cited the Packwood case where 6% of the institution have to deal with the situation instead of with their own work as why using non-Members may be helpful.

Suggested creating an Office of Congressional Compliance to oversee any allegations of violations.

In regard to the Senate floor, endorsed what Senator Mitchell had said.

#### David Mason of the Heritage Foundation

There are differences in views, but there is also agreement.

Term limits must be kept in mind if they are to be avoided. If the Committee really helps Congress clean up its act, it could avoid the need/call for term limits. Term limits should not be treated as PR problems.

The public has a pretty good understanding of the problems. Look to see what they think.

Think about legislating as the central act of Congress. Right now, not enough attention is being paid to it because there are too many distractions.

Casework should be reduced.

Boren: How can we discourage micromanagement and pork, besides self-discipline? How can we build in a mechanism to get better quality legislation?

Mason: Look at conference committees. Things crop up there. There needs to be stricter enforcement of the rules in these committees.

Domenici: Suggested going to the conference committee with the same body of laws.

#### Mason

The single subject rule has been used effectively in state legislatures to stop omnibus bills.



Another problem with legislation is when it is so general that its meaning is unclear. An example of this is the Americans with Disabilities Act (ADA).

Used the example of the wetlands case to show that passing general laws is a violation of equal protection. Laws seem to be either so specific that they cover everyone, everywhere, or they are so vague that a person would not even realize that he or she had broken one.

There is not enough debate in Congress. The debate over whether or not to use force in the Gulf War is an example of a good debate. At the end of it, there was a policy. Tying a debate to an actual vote or decision improves the quality of the debate. Recommended staying away from Oxford Union Style debate, which is not debate on the legislative process, and scheduling debate in connection with legislation.

Supports session limits. They will give focus to the sessions. Now it is too easy to let issues slide until the next session. Could have six or eight month sessions.

There could be staff cuts, for example in the support agencies. Also, caseworkers could be reduced.

Suggested taking a look at legislative shortcuts, e.g., committee reports. Are they statutory or non-statutory? If not statutory, they should be under suspicion. There is not enough distinction between what is put in legislation and what is put in committee reports.

Regarding House floor procedure, the Rules Committee should stop picking between germane and non-germane amendments. Instead they should set a limit on how many amendments can be offered, and give the minority a fixed amount of time to offer amendments.

Initial debate on a bill should be held at the first reading of a bill. Then the bill will either be killed or sent to committee. Give the committee guidelines for acting on a bill. This will give everyone a stake in the agenda process and also cut down on the amount of legislation introduced. Criticized giving additional scheduling powers to the leaders.

The Joint Committee should adopt a non-interference rule so that other issues do not get thrown to them. Also, some Members are saying that we do not need to do anything on a particular matter, because there is a congressional committee looking into a variety of reform issues. Congress should not wait for the Joint Committee's recommendations to act in certain areas.

### Questions and Answers

**Norton:** Disagrees with giving casework to a centralized staff because it will just create a bureaucracy. Likes the idea of a Congressional Compliance Office.

To have a pool and panel to deal with ethics implies that there will be no permanent staff, do you see no need for one?

Ornstein: Agreed that there should be a core staff.

Norton: What would the panel do?

Ornstein: Handle the first stages of an investigation and pass on recommendations.

Mann: Recommendations would ultimately reach the floor of the House or Senate.

Ornstein: The Joint Committee also needs to look at why laws have grown in length and why there is micromanagement. Now omnibus bills are used for efficiency. There use to be trust between the branches in making and carrying out the law. Now after 12 years of divided government, that trust is gone. In addition, Court decisions granting freedom of interpretation to agencies makes Congress write longer, more detailed laws. The end of divided government means that these problems will not have to be dealt with.

Reid: Commented that from 1984 to the present, the staff of the Executive and Judicial branches have expanded far more than that of the Legislative branch.

Mann: The first task of legislating is to get the facts right. It is a myth that congressional staffs are growing. This, however, does not mean that they should not be cut.

Reid: Reasserted the fact that the other branches have larger staffs.

Mason: Agreed that staff size had not grown and that cuts should not be made for budgetary purposes.

Reid: Agreed, but stated that those kinds of cuts will probably be made anyway.

How do we solve the problem of special constituencies and cutting select committees?

Ornstein: There should not be committees around special constituencies. Committees should be focused around policy issues.

Temporary committees should be temporary. The issues they cover can be moved into other committees with the correct jurisdictions, or that need work. For example, the jurisdiction of the Select Committee on Narcotics Abuse and Control can be incorporated into the Judiciary Committee. Or it could be incorporated into the Foreign Affairs Committee, as an enticement to serve on it.

Committees that do not have broad subject matter or interest could be given the jurisdiction of the joint and select committees.

Suggested abolishing joint committees, and expressed opposition to a joint intelligence committee. Favored a joint intelligence staff, however.

The Committee should look at Congress's printing function, and radically reform the printing process.

Lugar: Expressed concern that eliminating casework would eliminate contact with constituents.

Mann: Agreed that casework is an essential part of the job. Problems arise when Members try to find casework problems as an electoral strategy.

Ornstein: A balance between what Members of Congress can and can not do needs to be struck. With regard to a six month legislature, there would still be a twelve month President. What would happen during the other six months?

Dreier: Discussed frustration generated by the Rules Committee. There has been an increase in restrictive rules preventing minority Members from effectively representing their constituents. Recognized that with 435 Members, there can not always be open rules, but action needs to be taken to bring down the number of restrictive rules. How do we do this?

Mason: This is not a complex question to solve. Either limit the number of amendments or limit the time. Give minority Members a chance to decide which amendments to offer.

Dreier: Would you advocate an equal number of amendments for both parties?

Mason: Lay out three or four options from which to choose by a simple majority vote. Such options may be open rules, a limit on the number of amendments or written amendments only. Changing or adding options could be done by a 2/3 vote.

Mann: Cautioned against making the House look like the Senate which has its own major floor problems.

Commented that what started as the desire to bring order to the floor has turned into partisan conflict within the House.

The motion to recommit should be reconsidered. This option should be guaranteed to the Minority Leader.

The Rules Committee should not be restricted.

There is a "war of the roses" situation between the parties that needs to be de-escalated. The majority party has to take the first step. There is a need for more open rules. Legitimate differences need to be allowed out onto the floor.

Dreier: Stated that there are good amendments that the minority have not been able to submit. There is frustration among the minority. They feel that they need to embarrass the majority in order to get things accomplished.

Mann: Commented that with unified government, the majority might change its attitude toward the concept of minority rights. If that occurs, the minority party has a responsibility to respond in kind and inter-party relations could improve.

Ornstein: There is a broader point. There is a need to strengthen the leaders in both the parties and the institution.

Dreier: What are the chances of passing a package?

Ornstein: A bipartisan, bicameral package that looks to the broader issue of strengthening Congress has a chance at passage. The package has to be bipartisan. If so, the pressure to pass it will be very, very strong.

Mason: A unified effort from the Joint Committee is needed.

Mann: These are unusual times. A package of changes that will strengthen Congress has a good chance of passage.

Dreier: How do I deal with committee chairs?

Ornstein: Committee reform is essential, but it is not the only thing. Do not get so caught up that you do not build a consensus. The committee has to be careful not to make so many committee changes that a coalition against the reform package is formed. There is a lot to do besides reform committees. You are going to have to take on the chairmen, but the institution will be better for it.

Domenici: Not sure that what the American people seem to be mad about has anything to do with what we are trying to fix.

How do we lessen the fractured attention span?

Ornstein: The growth of partisanship in the House and individualism in the Senate is a problem. For example, in the Senate there is the problem of holds, which while not required by a rule, are allowed. There is no concern for the institution. We have to work at the cultural level.

Floor action needs to be reformed. Structural changes can be made to bring focus to Members.



Mann: There is too much catering to individual Members. The culture of the institution needs to be changed.

Domenici: Stated that he was pleased that Ornstein and Mann do not think that appropriations should be done away with.

Discussed reconciliation. Commented that if it was going to be used, its meaning would have to be decided upon.

Better oversight is needed. Wants to set in motion a way to do oversight work. There are bombs waiting to explode in a few dozen programs. Regular oversight by committees needs to be done. Feels that 2 year appropriation bill would bring better oversight.

Ornstein: Expressed skepticism of benefits from 2 year budget process. There will be imprecise projections. The idea will not have the desired effect.

Mason: Stated that he supported 2 year appropriation bills.

Domenici: Commented that there ought to be a way to set in motion a plan for Congress to do oversight work. There can not be reform without provisions for oversight.

Boren: Expressed interest in drawing members of an ethics committee from a pool. Thought the idea of compiling decisions and precedents was excellent.

It is important to reduce the number of staffers and committees but not across the board or in an artificial way. By doing away with unnecessary committees, unnecessary staff is also accounted for.

What should be done about associate staffers?

Mann: The individual must be balanced with the institution. The privilege of associate staffers leans toward the individual; we want to lean towards the institution. While there has to be committee staff, personal staff can be cut.

Boren: Commented that cutting staff is not a matter of being budget driven. It is a matter of Members being able to do their jobs effectively. Fragmentation is a problem for Congress and for the President who can not deal with all of it. There is a need to reduce committees and subcommittees and to fix jurisdictional overlaps.

How do we deal with fragmentation? Will people be willing to give up assignments? Are you willing to help us with this politically? Can you help us to identify overlapping jurisdictions?

Mason: In the House, there has been some success in limiting the number of subcommittees. Suggested letting the committees decide which subcommittees they need.

Boren: Commented that some may need none and others may need five. Instead of having a maximum per committee, would it be better to say that there should be no more than 25 subcommittees in each chamber? Then all the chairs in a chamber could get together and agree on what the 25 should be?

Mason: Suggested agreeing on a number and working the details out later.

Mann: Thought that Boren's approach made sense and agreed with it. Also stated that a very small number of committees would not be useful. Members must be allowed to have entrepreneurial opportunities.

Stated that the point here was not just politics but substance.

Boren: Do we set a number and say no more? Do we list who will or will not exist?

Ornstein: Cautioned against massive jurisdictional restructuring. Jurisdictions should be merged but not pulled apart. Issues can not be hermetically sealed. So the ad hoc process needs to be utilized. Nevertheless, some committees can be eliminated and some can be consolidated.

When assignments are limited, so are the number of committees and subcommittees. Violations of the rules with waivers and exceptions must not be allowed.

Reid: Stated that "Should we do this?" is a rhetorical question. This must be done by us because there is no one else to do it. The tough decisions must be made.

Boren: Outlined idea for dealing with the problem. Could it work to have two committee assignments per Member, and for each committee to have two subcommittees?

Ornstein: We would have to do the mathematics. Realistic numbers must be set. Allowing Members to each serve on two committees, and five other units, is workable.

Hamilton: Discussed the risks that the Joint Committee takes:

1. Proposals that undermine Congress.
2. Labor mightily and produce a mouse.
3. Do too much and not be able to get it passed.

Must decide what the most important reform is and how to get it through.

How do we shape the committees to deal with post Cold War international issues?

Reid: Commented that an important point that needs to be considered is creating an agenda with minority input.

Senate needs a mechanical way to deal with holds. We need to do away with them, or to put time limits on them.

Mann: Suggested that public disclosure of who puts the hold on what might be helpful.

Reid: Something more may be needed.

Ornstein: Stated that public disclosure and time limits may place incentive to think twice before putting on holds.

Dreier: Stated that the discharge petition is the closest thing in the House to a hold. Do you advocate similar measures regarding it?

Mason: Yes.

Ornstein: Stated that it was a different phenomenon that should be dealt with separately.

Dreier: Should members be held accountable for their actions in respect to the discharge petition?

Mann: The point needs to be considered.

Reid: Stressed the need to review programs. Stated that he has introduced legislation to reauthorize legislation every ten years, or it fails.

Ornstein: Suggested combining such a review with multiyear authorizations.

Boren: Stated that there was a common theme during the hearing: this is a great opportunity to do something. This should be regarded as a point of optimism.

## HEARING SUMMARY, MARCH 2, 1993

One Witness: Ross Perot

Chairman Boren commenced the hearing by giving a brief summary of the history of congressional reform. He stated that the Members of the Joint Committee as "trustees of this institution" are committed to making change in order to strengthen Congress. He then introduced and welcomed Ross Perot.

Vice Chairman Domenici thanked the witness for his efforts dedicated to improving America's future. He commented that the witness was helping Americans to understand the Joint Committee's effort to reform government. Senator Domenici further commented that the job of the Joint Committee could not be hurt by political motivations because it is a bipartisan group with equal numbers of members from each party.

Ross Perot

The efforts of the Joint Committee are aimed at the next generation. We have been spending their money. We must stop this and leave the American dream intact for them. Furthermore, there is the need to reform our government, rebuild our country, and lay the foundation to assure that the 21st Century will be our greatest. Unfortunately, 99% of the people believe that they have too little influence on government. You must look at why this is so.

The people feel that after going four trillion dollars into debt, a great utopia should have been created with great jobs and schools, no crime or illegal drugs, effective social programs and a growing, expanding economy. This, however, is not the case. We have a situation in which workers who once received \$440 a week are now earning only \$270 a week, clearly a decline in workers' salaries. We have both a four trillion dollar debt and a host of problems that will take expenditures to resolve.

The financial situation of the country is critical. The annual increase in the national debt exceeds the cost of fighting and winning World War II. Debt is like a crazy aunt who is kept in the basement. During the past election, however, she was let out and we now have to face her. Just throwing money at our problems, however, would be the same as buying a liquor store for a recovering alcoholic. We need to face the debt by going through detox.

There is a lack of confidence in government by the American people. The tax and budget summit made us skeptical. We were told that if we agreed to taxes, the budget would be brought under control. We agreed and then the deficit went up due to a mistake. The savings and loan problem has also hurt America's faith in their elected officials. In 1984, when the government was formally warned that a problem existed, nothing was done. When the problem



got out of control in 1988 and action was finally taken, it was the people who suffered.

The people are concerned that the Federal Government does not keep books. They feel that financial records are either inaccurate or non-existent. This feeling was reinforced during the economic address when President Clinton joked about the numbers being no good. Accurate numbers are needed to build support.

Our job and tax bases are deteriorating. The only solution is for every American to be employed in a well-paying job in the private sector. We do not need bubble jobs, jobs that only exist until a project is completed. Americans also realize that jobs have been exported overseas through trade agreements engineered by highly paid foreign lobbyists, many of whom were former United States government officials.

Americans are willing to accept their fair share of sacrifice, provided that programs are sound and well-conceived. They feel that this is our last chance. Previous programs have not worked and we are running out of money. We need to make this new effort work. This time, however, Americans want all the facts. They want to understand how and why things works - they want details. They want audited financial reports for each quarter. If you were a corporation, you would owe this to your stockholders. The American people deserve no less. Americans do not want tax and spending programs first, with only the possibility of cuts and savings at a later time. They want to know the entire plan in plain talk, not fancy Washington language. They want a balanced budget amendment without any loopholes. They want line item veto for the President in order to eliminate pork. They want to clean up the federal election process and get rid of the electoral college. They know that the system is obsolete. They want to see campaigns streamlined, open and untouched by PAC money.

You must listen to the people. The most successful businessmen listened to the people. Washington should do the same. You must get rid of the special interests and open channels for the people. As the owners of this country, the people want a proper voice in government. They feel that the government comes at them from Washington, manipulated and controlled by foreign lobbyists, domestic lobbyists, and special interests. They want a government that comes from them.

A quote from Cicero is still relevant today. It called for a balanced budget, a full treasury, a reduced public debt, and a control of the arrogance of public officials. The Joint Committee's work should bring about all of these things. The people are out there ready to support you. They are not "wilting like morning glories" as Tammany Hall suggested. But, before you win the people's support, you must make sacrifices. You must eliminate all of the perks and practices that have made the American people lose confidence in Congress. The Joint Committee can set a new standard of ethics in government. Do not worry

about getting the right number of votes to pass the package. If you give us great legislation, we the people, will see that it gets passed.

The American people feel that our government and some of its officials are for sale. Some foreign countries also share this view. To correct this, we must get rid of foreign lobbyists. The revolving door that allows people to move from government positions to jobs as foreign lobbyists must be slammed shut. No loopholes can be left. The role of domestic lobbyists must also be reduced. They must not be allowed to provide money, trips, influence or anything that would cause the American people to lose faith in our government. Lobbyists should be allowed to only bring ideas and information to Congress. We must declare that our government is "not for sale at any price."

We have good people in a bad system. Therefore, the system must be changed. Proposing solutions that will make the people happy, will not have the same effect on those in the beltway. The task that lies ahead of the Joint Committee is difficult. Visiting with the people however, will recharge your batteries, giving you new strength with which to face your battle. The support of the people can be gained through open, direct explanations. If it is the right thing to do, Americans will accept it. The Joint Committee has the opportunity to rebuild the base of our government. The future of our country is in your hands.

### Questions and Answers

Boren: Described his bill (S.420) dealing with foreign lobbyists that accounts for the revolving door. How important is it that we cover Congress as well? Should we have a statute providing that a former Member or staffer can not accept a foreign lobbying position after leaving office?

Perot: It is very important. A standard must be set, starting at the top. The view of Americans is that lobbyists should bring ideas only, no money, no trips and no perks.

Boren: Should there be statutory enactment with penalties?

Perot: Yes, make it criminal. Keep in mind that hardly anyone went to jail in the savings and loan scandal. There were only fines. If an ordinary person stole that much money, he or she would have gone to jail.

Boren: One of the issues which we have been concerned with is the fractured time of Members. How important is it to reduce the number of committees and subcommittees and the number of committee assignments?

Perot: In order to get a system that works, we must streamline and downsize. Members have schedules that would kill an elephant, they just can

not be handled. You need to bring people in to form plans that will save money and end gridlock.

Domenici: There is a perceived notion that only the creation of jobs in the private sector will truly cure the economy while government jobs, bubble jobs, will not. What are your observations on jobs created in the two sectors?

Perot: The government does not have a good record at creating jobs. Spending money to initiate private sector jobs is not working. In addition, no one in the White House has ever created a job.

There has always been an adversarial relationship between government and business while our competitors have always had supportive relationships. IBM was a growing, successful corporation until our laws kept it down instead of promoting it. Microsoft is in the same position as laws are beginning to put them under. Companies can get more support overseas. In effect, we are driving them there without realizing it, harming the people and the economy. You need to listen to people in business to fix industry and the economy. By bringing in business people, you can end the adversarial relationship.

Reid: Commented that the facts given about the budget summit were incorrect. 431 billion dollars were saved as a result of the budget summit.

Perot: For every dollar saved, \$1.83 is spent.

Reid: The deficit, however, is not a result of the budget summit.

Perot: There is a gap between what was planned and what actually occurred. The people who made the plan did not have good numbers and facts. Any business would collapse if the numbers do not match.

Reid: As the President indicated in his economic address, we will only be dealing with one set of numbers from now on.

Perot: Historically, OMB and CBO have had gaps in their numbers. This proves that you do not keep good books.

Boren: In the past, OMB numbers have been rosier. As the President said, we need one set of real numbers. We must work from a single set in order to make progress.

Perot: The people strongly feel that the numbers do not match.

Cohen: It is ironic that the foreign governments who criticize our ethics have corruption problems of their own. How do we get rid of foreign lobbyists? Should we prohibit Americans from working for them?

Perot: I am not a lawyer. You need to get a lawyer to work out the constitutional details. You may want to make it illegal for foreign governments and corporations to hire Americans.

Cohen: There are complexities within this idea. If a foreign company owns a plant in the U.S., should we not allow the company to lobby for its American workers? This is just one example of the constitutional issues which must be dealt with.

We must also deal with the concept of truth in packaging. How do we decide if a program is an investment or a consumption? Would you label Head Start as an investment or a consumption?

Perot: I would label it as an expense.

Cohen: Common labels must be used. How would you label the WIC program, immunization programs, and highway/bridges programs?

Perot: The WIC program and immunization programs are expenses. Highway/bridges programs are an advertisement. They are tangible things that can be considered advertising.

Kassebaum: Would you label highway/bridges programs as capital outlay?

Perot: Get an accountant to tell you what conservative accounting labels should be used.

Kassebaum: Many states that have budget amendments also have capital outlay programs so that they can balance their books. They simply put everything somewhere else. What do we do to counter creative budgeting?

Also, in regard to a line item veto, many people do not realize that it would apply to only 40% of the budget and would not affect entitlements. A line item veto will not solve all the problems.

Perot: For the areas that a line item veto does not cover, we are back to the problem of discipline.

Kassebaum: Commented that she does not agree with the idea that Congress is for sale. Influence comes from constituents. There are many organizations with large memberships who do not contribute money. There is a need to carefully sort out the special interests.

Commented on shipping industries overseas and on not losing our markets.

Perot: Washington understands diplomatic negotiations but not business transactions. This hurts us. We almost lost our airline industry for this reason. The protection that bankruptcy offers needs to be looked at. All of our problems



with business and industry goes back to the Sherman Antitrust Act which was aimed at big, successful businesses. We are still against those businesses today. We need to change our laws to fit today's circumstances.

Pryor: There are thousands of people in gainful jobs because of the work done by the present White House Chief of Staff. It is not true that no one in the White House has ever created a job. Furthermore, in December, President Clinton called on 300 business people to attend an economic summit where he listened to and participated in the discussion. The President is seeking out the advice of members of the business and labor community.

In regard to your comment about Pork of the Month, there are nine pages of cuts totalling 200 billion dollars in the President's proposed economic plan. One person's pork, however, is another person's investment. Does your definition of pork include the supercollider in Texas?

Perot: Everything must be looked at and placed on a priority list. There must be a rational analysis of what we need for the country's future.

Pryor: Oversight is constantly being used to deal with pork, but it must be realized that pork is very hard to define.

Perot: We need people who have had to fix things and make them work. A new plan must be piloted and debugged before it is mass produced. Do not micromanage from Congress, trust the people who run things. In addition, do not lock into a model and refuse to deviate from it. You need to be able to adapt and change as programs progress.

Norton: Commented that the witness displays classic American pragmatism. The Joint Committee has a special interest in some of the issues you raised, such as ending gridlock. Of the other issues that are of special concern to the Joint Committee, which are top concerns of yours?

Perot: The most important issue is that of ethics and integrity since from that comes the respect and support of the people. There are wonderful people trapped in a flawed system. Congress must be restructured so that work flows more smoothly. Military leaders realized long ago that when armies become too large they grow out of control. For that reason, they are divided into platoons, squadrons, etc. Congress has to find its own organizational pattern.

Spending money is a second issue of concern. There has always been the assumption that we are a rich country, always growing and expanding. We can not, however, "go West" any more. We can not leave our problems behind and move on because there is no where left to go. We have to live by our brains and wits because we have used up our resources. We must dole out dollars like water in the desert. Look at the industries of tomorrow. We have no method of protecting our industries and we are losing them to other nations. Biotech,

aviation, computers, robotics and automobile are all industries which we have lost or are in danger of losing.

Craig: There is a need for structural change, including an amendment requiring a balanced budget. It may take awhile to make a new system work and see the effects, but it must be started now if it is going to happen. There is a bipartisan group in Congress working towards this end. Having the support of the witness in this endeavor would be useful.

Perot: The people in our movement are waiting for Congress to provide for change.

Stevens: Leaving Washington to visit with the people is a good idea. As Baker said, Members of Congress should be citizen legislators. What about placing a time limit on the sessions of Congress?

Perot: That sounds like a good idea, but I am not an authority. The idea needs to be fully thought out in order to discover if it is right for this precious institution.

Stevens: Discussed some of the problems in getting home to visit with constituents as often as would be useful.

Perot: Large staffs are a problem. There is too much space between the work and the top level. The number of staff members needs to be streamlined.

Stevens: The cost of political campaigns is a problem. Should money from federal taxes finance campaigns?

Perot: Cutting the length of the campaign period will cut costs. What is the main cost of campaigning?

Stevens: Advertising, direct mail.

Perot: With today's technology, the method of campaigning can be changed. The airwaves belong to the people. Time should be made equally available on the airwaves for all candidates. Money can be raised by getting small amounts from large numbers of people. Members of our organization each pay fifteen dollars to join. With these dues, enough money has been raised to fund a television program on congressional reform.

Hamilton: Americans perceive the witness as having good common sense. What does that common sense say about Congress's processes, organization and structure? Why did you place ethics at the top of your list? How do you perceive this institution? Are we crooks? Dishonest? Untrustworthy?

Perot: Wonderful people come to Washington. In any business or organization, however, ethics always comes first.

Hamilton: What do we need to do in ethics to improve the perception of Congress.

Perot: Lobbyists, foreign interests, and perks must be abolished. The average citizen is not getting free trips and lunches; Congress should not either.

Hamilton: How would Americans describe Congress? What adjective would they use?

Perot: They feel that Congress is not responsive to the people. It is responsive instead to special interests. Americans want to love the institution, but right now they do not because of the budget summit, the savings & loan controversy, and the bounced checks scandal. They need their faith in Congress restored.

Dunn: Agreed with the witness' comment that even if the Joint Committee does the right thing, there will be a lot of unhappy people in the Capital.

Perot: That is true, but it must be kept in mind that the person cleaning the floor on the nightshift is sending money and that money can not be wasted. The pain of streamlining is the price for spending people's money carefully.

Dunn: The government should make cuts before raising taxes. Agreed with the witness on the need for a line item veto and a balanced budget amendment. There is some unfairness in Congress in regard to staffing proportions and discussions of amendments on the House floor. How can we create more fairness?

Perot: Get everybody into a room and ask what's good for the country. The ideal situation would be competition during campaigning, but then elected officials should link arms with the American people. We will all win or lose together.

Walker: Agreed with the need for a line item veto and a balanced budget amendment. Congress has passed laws mandating a balanced budget and then broken them. A rule is not enough. A discipline system is needed. Right now, the only discipline is the influence and pressure of the people. Should we mandate cuts and spending? Should we move more people directly into the system?

Perot: Discipline has to be imposed. In order to come up with the best plan, weigh everything and see what works best. Unorthodox ideas should be considered. The town hall meetings are one way to involve people more directly.

Walker: The more Americans that are involved in discipline, the better the system will be?

Perot: Yes.

Emerson: Concerned over the cliché that perception is reality and that Congress deals mostly with perception. Ways must be found to deal with reality. Supports a balanced budget amendment and a line item veto, since it has worked to instill discipline in Missouri.

What structural budget process reforms do you suggest? We have heard proposals for a two year budget cycle, a binding budget resolution, and restructuring of the appropriation/authorization process. Relatedly, are we using technology wisely?

Perot: Technology is not being well used. Obsolete computers and a clumsy tax system are causing us to lose money. Congress, however, shows no enthusiasm to fix the situation. A new computer system should be put in. The tax system has been patched by everyone. It is time to take a clean sheet of paper and create a new tax system that is fair, raises the right revenues and is compatible with everyone's needs. Get the best possible team to come up with a technology plan. Call Bill Gates and ask him to do it, but do not pay him. Trust the people. For every crook there are hundreds of honest people. Let them run things and ask them how to fix things.

Dreier: Commented that the witness has done a spectacular job of galvanizing the American people to get involved. The action of the Joint Committee will allow for issues and legislation to be dealt with more effectively. The House Rules Committee is the vehicle through which every piece of major legislation must pass. While the Joint Committee is bipartisan, the Rules Committee has a 2:1 member ratio. There is a 2:1 + 1 majority over the Republicans. During the 95th Congress, 15% of the rules were restrictive and 85% were open. Today, in the 103rd Congress, 100% of the rules are restrictive. There is an effective gag rule procedure being imposed on Members of Congress. Disenfranchising Members creates a serious problem. This issue must be presented to the American people.

Perot: Our organization will study this. Anyone sent to Congress should be able to represent their constituents.

Dreier: What is the proper ratio of spending cuts to taxing?

Perot: A 2:1 ratio. For every two dollars of cuts there should be one dollar increase. We need to track finances quarter by quarter, calling things as they are. This will put discipline back into the system.

Dreier: Will you help us get a reform package through Congress?

Perot: All the people want is a great country. If you pass great reform, people will support it. They will provide the votes. You can count on our organization to provide feedback on reform proposals and packages.



Dreier: Expressed concern over getting sufficient votes to pass a reform package.

Perot: We will be organized to move against the entrenched society in Washington. Your moving boldly will encourage others to do the same.

Boren: The package will need popular support. It has been suggested that outsiders, former Members and ordinary citizens, be used in the Ethics Committee process. Would that strengthen people's faith in Congress?

Perot: Yes. People should be appointed to such a committee so that they are in place when you need them. Americans hate that Congress is exempt from its own laws. All of America imitates the President and Congress. You set the standard for what we are.

Boren: Should we make lobbyists accountable for their actions?

Perot: That would force discipline.

Cohen: There is a philosophical split in America that needs to be reconciled. Differing views on tax rates and deductions demonstrate the effect of this split. There are two groups involved. The lovers of the status quo who only see the positive aspects of an institution and the critics who can only see the negative points. We must become loving critics who love the institution, but recognize that things must be fixed. The witness is one such loving critic.

Perot: American patriotism is still alive. Our organization wants to work constructively to improve government. Thank you.

## HEARING SUMMARY, JUNE 16, 1993

Twenty-one witnesses: Representative Tim Roemer, Representative Ralph Regula, Representative John Mica, Representative Steve Gunderson, Representative Alex McMillan, Representative Frank Pallone Jr., Representative Dan Burton, Representative Wayne Gilchrest, Representative Bob Goodlatte, Representative Jim Slattery, Representative Steve Buyer, Representative Tom Andrews, Representative James Greenwood, Representative Nick Smith, Representative David Minge, Representative George Gekas, Representative Paul Kanjorski, Representative Tillie Fowler, Representative Peter Torkildsen, Representative Karen Shepherd, and Representative Eric Fingerhut.

Representative Tim Roemer

Referenced Leroy Rieselbach's book, "Congressional Reform in the Seventies," which listed three conditions that made it ripe for congressional reform. Those three conditions were: the Vietnam War, Watergate, and the '72 and '74 elections. Stated that now three different conditions make this a prime time for reform of Congress: the more than 100 new Members of Congress who are change-oriented, the public criticism of the institution following the many scandals of last year, and a viable third party candidate, Ross Perot, whose popular support challenges the institution.

Offered one main idea for the Joint Committee to consider which would affect many areas of Congress which are in need of reform, including: committee work, the substantial nature of work of Members, floor procedure, quality of life and family life of Members, etc. Proposed a five day work week with three weeks spent in Washington and one week spent in the district. Five reasons which support the necessity of the proposal.

1) Overlapping and overburdensome committee and subcommittee scheduling. A five day work week would allow more time to devise a non-conflicting committee schedule which would allow Members to participate to a greater degree and in a more substantive manner.

2) Floor scheduling in the middle of the day. This causes disparate attention to be paid to both the floor proceedings and committee proceedings. A five day work week would accommodate floor scheduling at the end part of each day which would allow more focused participation in both activities.

3) Increasing the quantity and quality of attention paid to proposed legislation. This would improve legislating, and also improve the quality of proposed amendments.

4) More concentrated and focused time in the district. This will increase Members' opportunities to gather pertinent advice from constituents to bring back to Washington.

5) Improved quality of life. The quality of Members' lives and their family lives could be markedly improved by reducing the hectic schedules Members now have with the three day work week in Washington and then weekend work in the districts. The proposal also allows for a longer, more concentrated time period in the home districts.

### Questions and Answers

Hamilton: You are suggesting that by moving to a five day work week members could spend more time in their respective committees or subcommittees, but the suggestion has been made by many to reduce the number of committees and subcommittees and to limit the number of committees on which Members may serve. What is your response to that?

Roemer: I would not vote against any package because it called for reductions in the number of committees or the number of panels on which Members could serve, say a reduction from 5 to 4 or even 3. The real problem, however, is not numbers but scheduling. A five day work week coupled with better coordination of hearings and meetings by chairpersons could accommodate the present schedules of Members. I would also suggest that committee attendance be encouraged through innovative incentives, using carrots rather than sticks.

Dunn: I wholeheartedly agree with your focus on scheduling. You can count on my full support for your proposal of the five day work week.

### Representative Ralph Regula

Made three recommendations which focus on the manner in which Congress handles the taxpayers' money.

1) Biennial budget. Stated that he has introduced H.R. 1383, The Biennial Budget Act of 1993, to establish a two-year budgeting and appropriations cycle. The first year would be devoted to the budget resolution and to appropriations decisions and the second year would be devoted to authorization activity with deadlines. H.R. 1383 would allow for the necessary oversight which now is being largely ignored. It would also allow federal agencies to better manage their budgets as well as encourage greater overall budget discipline which is so desperately needed.

2) Overlapping jurisdictions. Committee jurisdictions need to be more clearly defined in order to clarify responsibility for various activities. Currently FEMA reports to 26 different House and Senate committees and subcommittees

and the EPA reports to 90. A more efficient government is a better government and this kind of mixed jurisdiction and, therefore, mixed responsibility causes inefficient government.

3) Committee assignments and attendance. The committees are the policy making arenas of Congress and therefore of utmost importance. Any improvements we can make to committee structure would be an improvement of the policy making ability of Congress. Committee assignments should be limited, possibly along the lines of Chairman Rostenkowski's suggestion of two committees per Member and two subcommittees per committee per Member. Attendance should be taken at committee meetings and proxy voting should be eliminated to ensure that Members are present at meetings so as to understand the issues being discussed.

### Questions and Answers

Hamilton: I am greatly interested in a policy which would address and correct so many important issues.

Regula: Well, for instance, in my Committee of Appropriations, it frustrates me to see all the programs that are created and exist because of lack of oversight. Also, if most legislating is done on a biennial basis, why shouldn't the budget be?

Dunn: I greatly support all three of your suggestions because of their potential to strengthen the deliberative function of Congress.

### Representative John Mica

One unjust issue that should be addressed by the Joint Committee is the inequality in committee staffing. For example, on the Committee on Government Operations, the investigating staff is made up of 25 staff from the majority party and 7 from the minority party, with the majority staff having a \$3 million budget while the minority staff has \$300,000, a fraction of the majority's share.

This inequality, comparable to a "medieval fiefdom," defies the checks and balances of the system, especially with a majority party member in the executive. This distributive system needs to be either corrected or abolished because at present the minority is unable to do its job of representing constituents in the legislative body.

### Questions and Answers

Dunn: I agree with your assessment of an unfair staffing situation. I appeared before the Rules Committee not long ago to propose a 2 to 1 staff and 1 to 1/3 budget for the majority and minority respectively, but I was not allowed to bring the proposal to the floor.



Mica: Clearly the investigative and oversight responsibilities cannot be carried out effectively under such circumstances.

Hamilton: There has been much discussion concerning the numerous and possibly overburdensome committee assignments for Members. How many committees do you serve on?

Mica: I serve on two committees and two subcommittees. It's manageable but I wouldn't recommend any more than that. It is the inequitable situation that leads to gross mismanagement of committees.

Hamilton: Have you observed proxy voting being used in your committees???

Mica: Yes I have.

Hamilton: Do you think the proxy vote should be maintained?

Mica: I really have no problem with it because many times it is necessary with all of the other time constraints and demands upon time. The real problem lies in diffusion of responsibility and lack of accountability on the part of Members concerning committee actions and decisions. The "nuts and bolts" of Congress, which is management, is a disaster.

Hamilton: Do you think there should be a separate committee to handle the oversight of certain important things?

Mica: Well, that was the idea behind the Government Operations Committee. We already have numerous committees, maybe too many. What is lacking is a clear line of authority which is necessary for pinpointing responsibility. Responsibility and oversight can only be achieved by having a more balanced majority and minority representation.

#### Representative Steve Gunderson

It is critical that in reviewing the organization of Congress, great attention be given to the fact that more and more of Congress's work is being conducted behind closed doors. Open government and open public debate of public policy is the cornerstone of public faith in the institution of Congress. The reasons for closing hearings and mark-ups should be more limited than they are at present.

The decision to close hearings is being made more and more frequently, and for an increasingly broad range of issues unrelated to either matters of national security or personal privacy. In particular the most closed committees are those that deal with the American people's tax dollars -- the Ways and Means and the Appropriations Committees.

For example, such critical legislation as the 1986 tax bill, the 1988 welfare reform bill, and the 1994 reconciliation bill which raised the taxes of American citizens and businesses by over \$300 billion, were all debated behind closed doors. This secrecy is not limited to closing out the American people; these committees often close off their hearings and mark-ups from the rest of Congress. Not too long ago, a mark-up for Appropriations involving a lot of money was closed to the other Members of Congress and one Member, who requested admittance, was outright denied access to the mark-up. I suggest that this is completely inconsistent with what Congress intended in 1973 when current House Rules on this issue were adopted.

This Joint Committee should take a careful look at the State of Wisconsin's open meeting law for a model. Wisconsin's open meeting law is an ideal program because it recognizes that keeping citizens informed about governmental affairs is essential to maintaining a democratic form of government.

I would like to suggest that all closed sessions should have to be announced, and if reasons for closing the session are outside of a group of very specific reasons, such as national security or personal privacy, the decision to close should be made by a full House vote. General meetings of committees and subcommittees should also be open to the public since these directly affect important public policy decisions. If we want the trust of the public we must be accountable.

#### Questions and Answers

Dunn: I would like to point out that it was Mr. Gunderson who introduced the Sunshine Act which called attention to the fact that Congress is rather unique compared to many, many state legislatures which have rules requiring open meetings of committees. I believe it to be good public policy and I commend you for presenting this idea to us.

#### Representative Alex McMillan

My bill, H.R. 2172, is presented to this Joint Committee as a measure which would directly confront the problem of the deficit which is in large part due to the enormous entitlement programs which have blossomed over the past years. The 1992 debate about a constitutional amendment requiring a balanced budget demonstrated the importance of a disciplined procedure to achieve balance in the federal budget over the near future.

H.R. 2172, the Health Care Reform Budget Enforcement Act of 1993, grew out of Budget Committee hearings on how the budget process is currently skewed toward avoidance of any discussion on the mandatory programs in the federal government even though they represent over 50% of the budget. Congress enacts and perpetuates entitlement programs which do not require annual reauthorization and appropriation as well as strict oversight.

This Act is designed to address both the substance of the problem and the process. The measure:

- 1) Does not allow the deficit to exceed \$150 billion by 1998;
- 2) Requires the President to submit a five-year plan to Congress which Congress may then amend;
- 3) Requires that budgets set categorical spending targets for discretionary and mandatory programs;
- 4) Eliminates the practice of baseline budgeting;
- 5) Requires authorization and Appropriations Committees to set spending targets and failure to reconcile will result in a categorical sequester at current outlay levels.

Spending targets are explicit in this Act. Reductions of approximately 13% in real terms are required in the national security function. Domestic discretionary programs are held to an absolute freeze in the aggregate. And, most importantly, increases in Medicare and Medicaid are held to the consumer price index with certain allowances for expected demographic changes. Social Security is held harmless from this Act.

The most difficult debate the 103rd Congress will have to resolve is health care reform. This Act will force Members of Congress on the committees of jurisdiction to make the fiscal decisions necessary to achieve these targets rather than abrogate such responsibility and allow spending to continue unchecked and the national debt to continue to explode.

To meet these spending target goals, it will be mandatory for Congress and the President to come to an agreement that does the following to find the resources necessary to provide more complete access to health insurance coverage and reduce the budget deficit:

- 1) Reform existing programs;
- 2) Eliminate programs that have out-lived their usefulness;
- 3) Alter the scope of certain existing programs;
- 4) Add such programs as necessary; and
- 5) Propose measures to raise the revenue to pay for what is spent over the categorical spending target in any program on a pay-as-you-go basis.

Anything less than what is proposed in this Act is simply avoiding the basic reason why elected representatives are sent to Washington in the first place -- to make hard decisions on fiscal matters. Complex or not, the deficit problem is here with us and must be resolved.

#### Representative Frank Pallone, Jr.

I would like to express my opposition to the elimination of the Committee on Merchant Marine and Fisheries. The proposal for the elimination of this Committee would be a serious mistake. This belief is not solely from self-interest

as a Member of the Merchant Marine and Fisheries Committee, as I believe that many interests would be adversely affected by this proposal for elimination.

The elimination of this Committee would result in less effective treatment of the issues now under its jurisdiction. Other committee staff do not have comparable expertise on Merchant Marine and Fisheries issues so that without the Committee's expertise on a variety of important issues, such as the Coast Guard, fisheries, and environmental issues, legislation dealing with these matters will suffer and oversight will slip.

I support the freshman Members of the Committee in their suggestion to change the name of the Committee to the Committee on Marine Affairs and Environmental Policy as I think the proposed name better represents the actual jurisdiction of the Committee.

I urge you to reject out of hand any proposal to abolish the Merchant Marine and Fisheries Committee.

#### Questions and Answers

Norton: How many Members does the Committee have?

Pallone: I'm not exactly sure. I would estimate about 35.

Norton: You have raised an important point about oversight. We will consider your testimony.

#### Representative Dan Burton

The Democratic leadership, through the Rules Committee, is stifling free and open debate on the House floor. Republican and Democrat Members are being denied the right to offer amendments to major pieces of legislation -- not because of time constraints, but because Members of the majority do not want to vote on controversial issues.

Of 18 major bills brought to the House floor this year, 13 (72%) have been debated under very restrictive rules. Ten years ago only 32 percent were debated under restrictive rules and 68 percent had open rules.

Examples of the imposition of restrictive rules are many, and include The Fiscal Year 1994 Budget Resolution and The Omnibus Budget Reconciliation Act.

Of 270 amendments submitted to the Rules Committee this year, only 52 have been approved for floor action. Among those amendments denied a vote are:

- 1) A Constitutional amendment requiring a balanced budget;



- 2) An amendment retaining the ban on HIV-positive immigrants from permanent admission to the U.S.;
- 3) An amendment retaining the ban on homosexuals in the military;
- 4) An amendment rescinding \$1.96 billion in pork-barrel projects
- 5) Separate amendments to the reconciliation bill deleting the energy tax and the Social Security tax.

These are the big issues. The American people expect us to debate them and vote on them -- not avoid them.

The waiving of the three-day rule has become routine. The Budget Reconciliation Act -- which raised taxes by \$350 billion -- was brought to the floor the morning following the night the final details were written. This bill was 1,500 pages and the rule, with self-executing amendments, was 900 pages. Members were required to vote on 2,400 pages of legislation without a chance to read it.

A look at the power of the Appropriations Committee that is basically without checks is enlightening on this whole matter. Pork projects have increased greatly over the last ten years, which has contributed markedly to the deficit. There are unspoken threats made to Members of cutting money to their districts if they go against Appropriations.

One of the subcommittees, on Transportation, has taken steps to limit pork projects by establishing stringent criteria. Each subcommittee should follow suit and the Joint Committee would do well to take a close look at this Subcommittee's work, which would greatly reduce government spending.

### Questions and Answers

Norton: If Rules were made more open, would the outflow of amendments prevent effective legislation and lead to greater gridlock?

Burton: We come in January and don't do much until April. If we started earlier, a lot of important issues could be brought to the floor.

Norton: This Committee should certainly try to account for the differences that now exist in the rules and if those differences cannot be accounted for, changes seem to be warranted.

### Representative Wayne Gilchrest

First I would like to comment on my opposition to eliminating the Merchant Marine and Fisheries Committee. This Committee is extremely useful and it would be a mistake to eliminate it.

My main point, though, is the bill I have introduced that will bring free and open debate to the floor of the House. I hope the Joint Committee will consider

it as part of a comprehensive reform of floor procedure. The bill would require a 60% super-majority vote to adopt a rule which prohibits consideration of any germane amendment filed with the Rules Committee at least three days before consideration of a bill. This would require that the majority consult with the minority to bring a rule to the floor.

The increasing frequency of closed rules is rapidly eroding Members' ability to modify legislation and such rules detract from congressional accountability, as Members are no longer required to vote on specific provisions of legislation. This bill is not designed to take away the majority's power to pass or defeat amendments, but rather, to allow specific provisions of controversial measures to come to the floor for consideration. In order for the amendment process not to be used as a tool to block legislation, a certain number of amendments (say 3 or 4) could be allowed from each side of the aisle. It may be desirable to exempt certain legislation from this requirement.

The American public, having become aware of certain Rules Committee procedures, is greatly offended. They want to know how their Representatives feel on specific provisions of controversial legislation.

#### Representative Bob Goodlatte

The American people are outraged that Congress regularly places itself above the law. If Congress were subject to the same laws it passes for everybody else, federal regulations might be drawn with a sharper pen and greater oversight might be exercised because the application and impact of laws would be better understood by Members. It is a double standard that Congress can ask a small business to comply with safety and labor laws and not have to comply itself.

The efforts of Congressmen Shays and Swett to put forward legislation to reverse this trend is to be commended. The Congressional Accountability Act would settle the separation of powers problem and would ensure enforcement.

Equal application of laws to Congress and the public would generate support for more sunset laws requiring Congress to follow up on previously enacted legislation. This would also create greater support for independent review of the regulatory process which currently is without adequate checks and needs to be reorganized.

#### Representative Jim Slattery

Endorsed his proposal, H.J.Res. 41, for a constitutional amendment to increase House terms to four years, elected concurrently with the President, and to require House Members to resign from the House in order to run for the Senate. Senate terms would remain unchanged.

He admitted that some viewed his proposal as too radical, but offered four arguments in defense of the change. Earlier in the Nation's history, term limits generally were much shorter in state and local government, but now four years (even in local office) seems to be the norm. Thought the four year terms will lengthen Representatives' time horizon and reduce their constant fixation on the next election. Now, many Members fear tough votes in the House on the grounds that they will have insufficient time to educate their constituents about the issues which caused them to vote the way they did; four year terms will give Members greater latitude. Finally, believed that four-year terms will limit the "money chase" Members are always engaged in; a longer term will reduce but not eliminate the need to raise money.

### Questions and Answers

Norton: I am sympathetic to this proposal. I have noted the "wear and tear" on western Members constantly flying cross country -- many every weekend -- to meet with constituents or to raise campaign funds. Government tells the private sector to consider the "long term view," but the House of Representatives ignores this sound advice. The Joint Committee will give serious attention to this proposal.

Slattery: Perhaps the debate on my constitutional amendment could be coupled with a discussion of the term limitation proposal. Also, I would be willing to consider a proposal to enlarge the size of the House. The average size of a district has nearly tripled since the House size became fixed at 435 in 1912. Although communications is now much better, the House ought to consider enlargement to increase effective representation. The House does not lack for information, it lacks time to assimilate information. Longer terms and smaller districts might make for better legislation.

### Representative Steve Buyer

Endorsed a number of specific reform proposals. Favored extending the protection of Federal labor and work place protection laws to congressional staff, further limitations on franking, 4-year terms and term limits for House Members, jurisdictional realignment, and minority staffing reform.

Put particular emphasis on reforming rules from the Rules Committee, noting that he expected the House to be the ultimate forum in a democracy. His experience as a freshman showed him this was not the case, with both Democrats and Republicans being shut out of the amending process on the House floor. Quoted Speaker Rayburn as saying that there were few measures that did not benefit from debate and scrutiny by the House.

Endorsed a proposal to require proportional party representation on the Rules Committee; a 3/5 vote of the House on agreeing to any rule waiving a House rule; a 3/5 vote of the House to limit amendments; and a 3/5 vote of the



Rules Committee to report rules providing for waivers or amendment limits. Acknowledged the right of the majority to set the House agenda, but objected to using that right when it also limited the rights of Members to represent their constituencies. Saw links between the 1910 revolt against Speaker Cannon's control of the agenda and the Rules Committee, and current controversy over restrictive rules and rule waivers.

### Questions and Answers

Walker: Consider that a Republican majority might need to expedite procedures in a manner similar to that practiced now by the Democrats, should the Republicans gain control of the House in the future.

Buyer: I hope that the Republicans in the majority would remember their frustration in the minority and act in a more open fashion.

### Representative Tom Andrews

Focused his testimony on budgetary issues, and was especially critical of pork barrel spending. In his view, pork tends to discredit all congressional spending decisions. Urged using a commission modelled after the base closing commission to review dubious spending proposals. Commission identified provisions would be subject to a second up-or-down vote in the Congress.

Relatedly, urged establishment of a capital budget to differentiate between spending for current operations and longer term investment spending decisions. Endorsed the proposal of Representative Bob Wise for a capital budget.

### Representative James Greenwood

As a new Member elected on pledges of reform, viewed his role as that of an advocate of changes to make Congress accountable and uncomfortable -- to force it to make critical, even unpopular, decisions publicly.

Noted that he endorses a ban on PAC contributions. Most directly, called for a ban on unsolicited congressional mailings sixty days before an election. Noted that the definition of mass mailing (500 or more identical pieces of mail) allows Members to send out 499 pieces at any time and not violate the letter of law. Cited Taxpayers Union data that 24 Members sent more than 300 mailings of between 400 and 499 pieces (costing more than \$100,000) less than sixty days before the last election. Said that current law is impossible for the Franking Commission or House postal facilities to enforce. Instead, wanted an outright ban, except for individual responses to incoming mail received by Members within the previous 60 days, mail sent to other Members of Congress, or mail to State and local government officials.



### Questions and Answers

Walker: Would there be any restriction on responding to mail that a Member received within 60 days of the election?

Greenwood: Absolutely none. If you get a letter you can respond to it quickly. The ban on responding to incoming mail received within 60 days of the deadline was intended to prevent Members from developing mailing lists and sending out mail to people who had not written them recently (but who had written in the past), thereby claiming the mail was "solicited."

### Representative Nick Smith

Focused on budgetary reforms, as he was particularly concerned about interest payment growth. He estimated that interest payments were now around \$280 billion annually -- comprised of \$200 billion in direct interest payments and \$80 billion representing sums borrowed from the Social Security trust fund to pay other interest due.

Announced that he was drafting proposals to require budget functions to be subdivided according to committee jurisdiction. He was seeking a way to prevent one committee from reporting legislation with such a large potential outlay that other committees with jurisdiction in that function would be prohibited from acting. The current system gives committees, especially Appropriations Committees, too much flexibility.

### Questions and Answers

Walker: Your proposal would link authorizing committees, not just the Appropriations Committees, to specific subfunctions in budget resolutions?

Smith: Yes.

Walker: By now, you have seen that the authorizing committees may need some restraint. It is too attractive for authorizing committees to recommend large authorizations, knowing that the Appropriations Committees will be more restricted and restrained.

### Representative David Minge

Offered a number of suggestions on committee assignments and leadership selection processes. Urged the use of some other standard for committee leadership than seniority; in addition, wants mandatory rotation of committee and subcommittee leadership positions, with a limit of no more than one leadership post (full committee or subcommittee) per Member. Believed that rotation will give more Members a chance at policy leadership sometime in their

careers, and that non-seniority selection criteria will reward merit not just tenure. Noted that one cannot rely on the voters to change congressional leaders, and that the caucus (even with secret ballot votes) cannot be relied upon to choose new party or committee leaders.

In other areas, urged a realignment of committee jurisdictions as a handful of committees had too much power. Believed the House needs greater workload and policy balance among committees. Favored a maximum of 2 subcommittee assignments per Member, forcing a reduction in the number of subcommittees and their size to improve scheduling, committee attendance, and quality of deliberation.

### Questions and Answers

Emerson: The Joint Committee has just about finished receiving testimony, and will soon begin deliberations. We will conduct a full review of all proposals received.

### Representative George Gekas

Focused on the role of the Intelligence Committees and on the appropriations process. Endorsed the proposal of Representative Hyde for a joint Intelligence Committee. Noted that he had supported it originally when Mr. Hyde offered it as Ranking Member of the Intelligence Committee, and that his [Gekas'] support was stronger now that he had succeeded Mr. Hyde as ranking member on the panel. Believed that a joint committee would reduce the chance of leaks (with fewer Members serving), and would reduce the number of times that executive branch officials would have to testify.

Concerning appropriations, urged adoption of an "instant replay" appropriations proposal. If the regular appropriations were not enacted by October 1, an automatic continuing resolution would be triggered based on the spending levels in force during the previous fiscal year. Congress could then review the appropriations without unseemly haste, and government services would not be interrupted. Noted the failure to enact even a continuing resolution during the height of the Desert Shield action. Cited a GAO study endorsing automatic funding carry over to prevent a funding gap when appropriations are late in passing.

### Questions and Answers

Emerson: There is merit to both of your proposals. I will call them to the attention of other Joint Committee Members during deliberations.

### Representative Paul Kanjorski

Noted that he and Representative Emerson were pages together forty years ago, and based most of his testimony on comparisons of the effectiveness of Congress then and now. Viewed earlier Congresses as more creative with more substantive deliberations. Urged the Joint Committee to be bold in its recommendations, noting that such opportunities did not present themselves often. Called for reforms evening out the workload and jurisdiction of committees, with fewer committees having broader jurisdiction requiring fewer multiple referrals.

Supported a two-year budget cycle giving Congress a generally uninterrupted year in which to review program operation and spending before having to appropriate again. Called for a merger or linkage between authorization and Appropriations Committees; observed that the decision to remove appropriations jurisdiction from authorizing committees in 1921 might have been valid then, but was not valid now.

Called for the leadership to set legislative priorities for the session, noting that committees spent too much time on bills and issues that ultimately won't pass. Committees hold too many hearings for press coverage and publicity. Relatedly, serious oversight activities are frequently omitted. Observed that the cause of congressional frustration is not with the enactment of laws, but with how the agencies execute the laws. Recounted instances where agencies completely misspent the funds Congress had provided, and that Congress had not noticed such action until it was too late to do anything.

Labelled the administration of the House wasteful, fragmented, and inefficient. Noted the slowness with which purchases are made, and criticized the House Administration Committee's "approved list" of product and service vendors, noting that many equipment sources are much more expensive than ordinary public companies. Computer systems are faulty as well: too cumbersome and not user friendly. Better electronic data transfer in Congress is vital and it is much more common in the private sector. Why can't the House match or exceed the best private sector uses of information technology?

In closing, criticized those who run for Congress by criticizing those who are in it, even their current colleagues. Such campaigns misrepresent and distort public perceptions of Congress. Urged the House to experiment with better ways of educating the public about congressional activities.

### Questions and Answers

Emerson: Your testimony covers the principal areas in which the Joint Committee anticipates making recommendations. I concur in the need for better oversight and the related proposal for a two-year budget cycle. Do you think that the House is ready for serious reform?

Kanjorski: Members will support change, but only so long as they are not directly affected. The 110 freshmen and some other blocks of Members can form the nucleus of support for any reform package. This effort is the last chance to save the congressional system; the public is so disenchanted with the political environment, it might endorse a shift to a parliamentary system as a way to get fast action.

Emerson: I am not certain that one can reform the human element in the congressional system, or in the executive branch. I disagree regarding the parliamentary system; Congress was never supposed to be efficient.

Kanjorski: Congress does not need to be efficient, but it needs to be able to deliberate and consult. Member-to-Member contact is vastly lower than forty years ago. Members need time to talk among themselves, and to talk with their executive branch counterparts both in framing policy and in reviewing it.

Panel Presentation by Representative Tillie Fowler, Representative Peter Torkildsen, Representative Karen Shepherd, and Representative Eric Fingerhut

As co-chairs of the Republican Freshman and Democratic Freshman Class Task Forces on Reform, respectively, they reported on their efforts to achieve bipartisan agreement on certain reform agenda items.

Representative Karen Shepherd

Both groups endorsed the Shays-Swett Congressional Accountability Act, bringing congressional employees under coverage of Federal labor and work place laws. Through their efforts, the bill now has been cosponsored by a majority of House Members. They also worked together with Representative Porter Goss of Florida to craft an amendment to the Legislative Branch Appropriations bill phasing out benefits for former Speakers of the House, and will next turn to a similar phase out for former Presidents. They have reached bipartisan accord in campaign finance reform, both groups supporting an end to PAC contributions, soft money restrictions, and better lobbying disclosure.

Representative Eric Fingerhut

Noted both groups' concern for scheduling reform, an attempt to avoid the problem of doing too much in not enough time. Supported a three weeks on/one off scheduling plan. Supported bold jurisdictional shifts among committees to make the remaining committees more attractive; the demand to serve on more committees reflects a view that many committees are not enticing enough for Members.

Representative Tillie Fowler

Observed that the freshman classes, the largest such group since 1948, provides an unprecedented chance for reform since so many Members have such little stake in preserving the status quo. As a former Democratic staffer and now



Republican Member, expressed concern with the heightened level of partisanship in the House, more than she experienced two decades ago.

Representative Peter Torkildsen

Noted the success in generating support for the Shays-Swett bill and other bipartisan efforts of the group.

Questions and Answers

Allard: What are the chances that the bipartisan freshman groups could work in concert with the sophomore groups in both parties?

Fowler: I would supported such efforts if the two sophomore groups could work in tandem as the freshman groups have.

Fingerhut: The key to such work is bipartisanship.

Allard: As a sophomore Republican, I believe that an agreement might be possible on a reduction in committee budgets, reform in multiple referrals, enforcement of printing availability and layover rules, closed rules and debate restrictions, better Hill administration, more predictable scheduling, and possibly even on line-item veto.

Torkildsen: Democrats and Republicans might not be able to agree on a line-item veto.

Fingerhut: On layover rules, the proposals are all tied to debate limitations and scheduling predictability. The lack of quality debate coupled with fragmented attention to issues are all linked. The line-item veto agreement is not possible; freshman Democrats did not mention it at all in their package, because of conscientious opposition from some Democrats that would have threatened the entire package. There is much frustration about the issue: a majority of both parties support line-item veto proposals, but they have been unable to reach agreement on the procedures for debating and voting on the issue. Partisan squabbles have increased.

Dunn: I congratulate your work on allowances for former Speakers. I agree that the freshmen will be an important force in any future successes in enacting a reform agenda.

Fowler: There will be continued support from freshmen for reform.

Torkildsen: The sheer number of freshmen Members is a clear indication of public dissatisfaction with Congress. If Congress does not succeed in reforms, the next freshman class will be comparably large.

Shepherd: Both groups cannot truly speak for all freshmen. There is, predictably, strong support for reform in general, but particulars bring out opposition from individuals or from blocks within the classes. But, we will work toward reform since this is the best window of opportunity many will ever have.

Dreier: Freshmen are the key. GOP opposition to the rule on the line-item veto was not due to the substance of it, but to the fact that the Republican Leader was denied the opportunity to offer a key amendment that he sought.

Fingerhut: The bill has caused difficulties, and as an issue of conscience for Members on both sides of the aisle, compromise was extraordinarily difficult.

Dreier: I hope to achieve a consensus on freer and more open debate, and better adherence to current rules. We've spent a lot of time on reform efforts so far, and we don't want to have wasted the effort.

Shepherd: There is some shifting of opinion in the Democratic group on the issue of open rules.

Fingerhut: As a Democrat, I want procedures that are democratic, with a small "d".

## HEARING SUMMARY, JUNE 29, 1993

**Twenty-one Witnesses:**

Representative Neal Smith, Ned Massee, Fred Wertheimer, Paul Jacob, Joseph DioGuardi, Frank Horton, Joseph Gimelli, Richard Gutting, Thomas Schatz, David Slade, Beth Marks, Margaret Dunkle, Arthur Sackler, Gerald Leape, Karyn Strickler, Craig Van Note, and Andrew Palmer.

Senator Byron Dorgan, Senator Larry Craig, Senator Dan Coats, and Senator Sam Nunn.

Representative Neal Smith

As a former chair of the House Democratic Caucus Committee on Organization, Study, and Review, I understand the difficulty of putting together reform. You have to separate the long-term effects from the short term-effects. There are three major problems with Congress -- we are not effective, we are not getting the job done on time, and we do not have enough time to consider legislation. The reason for these problems is tardy authorization because of one year instead of multi-year authorizations.

We are really on a three year cycle: one year to develop the program, one year to authorize the program, and one year to implement the program with mid-year corrections. Last October, the Defense Department made their request for 1994. Around February, they presented an authorization. The Appropriations Committee then held hearings in the spring on the Pentagon's idea of an authorization instead of on the law passed by Congress. The appropriation was held up waiting for an obsolete authorization. Bills with multi-year authorization, such as agriculture, education, health, and science & technology do not have the same problems. Hearings are held on the law and there is time for oversight. There should be a new rule that no authorizations should be allowed on the floor unless they are for years in advance of those being appropriated for or if they are phasing out an old program.

The number of committees and subcommittees should be decreased and membership should be limited. The present system of letting anyone serve anywhere began in 1975. Before 1975, we had balanced committees, now we have special interest committees. We need to return to balanced committees. The full committee chair should only chair its subcommittee on oversight.

Ned Massee, Chamber of Commerce

In 1991, the Chamber's Public Affairs Committee organized its Government Process Task Force. Our mission was to consider improvements in the overall

legislative and political process. The Chamber supports the goal of the Joint Committee. The time for reform is now. One reform that many Members agree should be made is applying all laws to Congress. One defense against this is separation of powers; Congress does not want to fall under the control of the executive or judicial branches. Separation of powers, however, does not mean that any of the branches should be exempt from the law. By equally complying with laws, Members will place themselves on the same level as those they represent.

The Chamber supports a limitation on the terms of committee chairs. This will minimize the ability for any one Member to gain an inordinate amount of power, while giving more Members the opportunity to move into leadership positions. The effect of losing a good chair will be outweighed by allowing more rotation of leadership positions. In addition, it is our recommendation that a limit be set on the number of consecutive years Members can serve on a committee. This guarantees that new leadership and new ideas would flow into committees on a regular basis. Members would then have the opportunity to gain experience in new and different areas.

Committee jurisdiction needs to be clearly defined. Overlapping jurisdiction only impedes the process of creating good public policy. For example, energy legislation falls within the jurisdiction of 40 plus committees and subcommittees. Clearly, to more expeditiously move legislation through the process, the committee structure must be adjusted.

Finally, the franking privilege is another area for reform. There is a need to establish limits and extents of acceptable usage of the franking privilege. Members should continue to communicate with their constituents on legislative issues, but the franking privilege should be limited in the months prior to elections so as not to give incumbent Members an unfair advantage over challengers.

#### Fred Wertheimer, Common Cause

There are two questions to the issue of Congress enforcing rules applied to itself: 1) enforcement of ethics rules and 2) enforcement of employment rules.

For the enforcement of ethics rules, there needs to be an independent voice involved in the deliberations. Constitutional provisions need to be balanced with public trust. An Independent Office of Ethics Counsel should be established for each body. The head of each office will be appointed for a fixed period of time. The office will hear initial complaints and concerns. It will also make initial decisions such as whether the complaint is frivolous or if outside counsel should be brought in. The office will serve as an investigator and will have the power to bring charges against a Member. It can also interpret rules and act as an advisory committee. The final decision, however, will be made by either an ethics committee or an ad hoc committee. There should be more options for



imposing sanctions for ethics violations. In addition to expulsion and censure, the removal of seniority should be a sanction.

An Office of Fair Employment Practices should also be established. Employees of Congress should have the same rights as Executive Branch employees. They should have the right to go to court in a system separate from Congress. There is no basis for denying this to employees.

Dreier: What are your thoughts on having former Members of Congress involved with an ethics panel?

Wertheimer: It concerns me because former Members may still have relationships with Congress. They would not have the same independent role in the process.

#### Paul Jacob, US Term Limits

The Joint Committee exists because the American people are crying out for reform. The United States Congress is the flagship of US democracy, yet it is reviled and ridiculed at home. The state of Congress has sunk in the minds of the people. The first step to better relations between the people and Congress is term limits for Members of Congress. Polls show that Democrats, Republicans, and Independents all support term limits by 75% or more.

This solution is simple and straightforward. Members are representatives of the people, on temporary leave from their communities. They are short-term public servants who leave again to live under the laws they made. The people do not want career politicians, they want citizen legislators.

Term limits return democracy to the people. Twenty-one of the twenty-four women elected to Congress in the last election won open seats. Women and minorities are mostly elected to open seats. Term limits provide for open seats. Congress realizes that 14 states have term limits and 8 more have them on the 1994 ballot. Congress, however, has held no hearings or debate on the subject. Congress has refused to act or to listen. Now, Congress must commit to listen to the people.

Dreier: The issue of term limits has been discussed by the Joint Committee. With reforms, the power of incumbency should diminish. Campaign reform should also diminish the power of incumbents.

#### Joseph DioGuardi, Truth in Government and former Representative

I spent four years in Congress and twenty-two years as a CPA, but I am not representing either of those points of view today. I am representing the people.

Congress is not representing the people. The public is demanding the truth. They perceive a credibility gap.

The legislating process takes about four years with the budgeting, the accounting, and the reporting. There are many budget gimmicks used by Congress. One of them, doing things off the books, would be securities fraud in business. Any business that did what Congress does would be indicted.

Voting cards are the most expensive credit cards. They have no limit because Congress can keep raising the limit and keeping the transactions off the books. There must be accountability, give the public truth in government spending.

#### Frank Horton, former Representative

I served in Congress for thirty years, the body is not all that bad. You must make sure that you do not throw out the baby with the bath water. There has been a proposal to put the Post Office and Civil Service Committee into the Government Operations Committee. I served on Post Office and Civil Service for 8 years and on Government Operations for 30 years. I know the jurisdiction of both. I am opposed to this consolidation. It would be counterproductive and dilute the ability of both committees. One is an authorization committee and the other provides mainly oversight. If they were combined, it would be disastrous as neither function would be fully accomplished.

Dreier: We are interested in trying to reduce the number of subcommittees. How many subcommittees were there on the two committees you served on?

Horton: There were five for Post Office and Civil Service and 6 for Government Operations. Reducing the number of subcommittees is a good idea. It's important that Members do not serve on more than one or two committees.

#### Joseph Gimelli, Court Reporting Services

After spending 58 years in the business of court and Congressional reporting, I have a recommendation that will achieve huge savings and add substantial amounts to the U.S. Treasury: eliminate the Office of Official Committee Reporters. The use of private industry is more economical. With the expenses of office space, supplies and equipment, retirement, benefits, and salaries, that cost per page for using the Official Reporters is \$45.00. The cost per page for using private industry is only \$5.10.

It has been argued that the Official Reporters are needed for confidential and emergency hearings. The Senate, however, also has confidential and emergency hearings, yet they have always used private industry without any problems. The staff director of each committee, with the approval or by the recommendation of

the chair, should appoint the reporting firm that is the most capable of handling their needs. In addition, I would recommend that monies from transcript sales go to the U.S. Treasury.

Richard Gutting, Jr., National Fisheries Institute

I represent the fish folk and am here to respond to the suggestion to eliminate the Merchant Marines and Fisheries Committee. The Committee works. It has been productive and successful. The Committee was instrumental in obtaining passage of the Magnuson Fishery Conservation and Management Act and a series of follow-up fishery laws.

Congress will need this Committee to address the issue of oceans, a surface area three times the size of land. There are \$80 billion worth of programs dealing with oceans. There needs to be a place to pull all of these efforts together. That place is the Merchant Marines and Fisheries Committee. The Committee is also needed to deal with environmental issues. It has broadened its jurisdiction to pass environmental legislation. The Committee has the expertise to deal with this important area. The Committee also has the ability to bring people together and work through consensus.

Thomas Schatz, Citizens Against Government Waste

There are few more important endeavors of the 103rd Congress than the work of the Joint Committee on Organization of Congress. Taxpayers are demanding a more responsive and accountable legislature, and they are watching closely to see if real and effective changes will be made.

These are the "top ten" items about Congress which consistently shock and amaze taxpayers, which I have heard on hundreds of talk radio shows around the country:

- 1) Members do not attend most committee meetings and often vote without being present.
- 2) Members rarely read the legislation before they vote.
- 3) Staff size has dramatically increased.
- 4) Restrictive rules often allow no opportunity for amendments.
- 5) The House is typically only in session from Tuesday to Thursday.
- 6) Many of the laws Congress makes for the rest of the country do not apply to itself.
- 7) More than 1/3 of the legislation enacted by Congress is related to commemorative days or events, not substantive issues.
- 8) Hearings are not always open or accessible and are stacked 96% with witnesses who want more spending or new programs.
- 9) There is no inspector general for either House.

- 10) Billions of dollars in spending legislation is passed behind closed doors, without debate and discussion, while Members spend more time with lobbyists than with constituents.

It's no wonder taxpayers are frustrated and angry, and their esteem for Congress has sunk to low levels. It's no wonder that term limits continue to receive overwhelming support and adoption in every state where the issue has been on the ballot. Voters are saying "enough."

Emerson: What do people think we do for the other four days?

Schatz: It is their perception that the other four days are spent running for reelection.

Emerson: Why does not some objective person tell them what we do? This misunderstanding should not be continued. The whole story needs to be told.

#### David Slade, Coastal States Organization

We represent the Governments of the Coastal States. They came together because of the common interests of these areas. We deal with Congress across a vast array of issues. For resource management of the great lakes and coastal regions, we need to consolidate jurisdiction of the issues affecting these areas. In the Senate, we deal with 3 different committees. In the House, we deal predominately with the Merchant Marine and Fisheries Committee. We need to keep this Committee to use as the nucleus for building jurisdiction.

#### Beth Marks, The Antarctica Project

We are concerned that the advice offered to this Committee to disband the House Committee on Merchant Marine and Fisheries will decrease Congress' ability to respond effectively to vital marine, coastal, and fisheries issues. No other committee in Congress has developed expertise on ocean and coastal policy. The basic objective of reforming Congress is to improve the way it works and to improve the quality of its decisions. Disbanding the Committee on Merchant Marine and Fisheries will have the opposite effect.

The Committee on Merchant Marine and Fisheries has always been on the cutting edge of policy decisions with respect to the protection of the Antarctic environment and the conservation of its living resources, and U.S. involvement in the Antarctic. As the Members and staff of the Committee have built up the expertise necessary to work on these issues, the Committee has been able to take the lead in developing domestic legislation to implement those treaties and conventions critical to Antarctic conservation.



We urge that the Joint Committee consider the possible effects on the domestic and international environment, on fisheries, on oceans, and on Antarctica in evaluating the recommendation to disband the Committee on Merchant Marines and Fisheries.

Margaret Dunkle, Institute for Educational Leadership

There are confusing and conflicting eligibility requirements for federal programs. A major reason for these inconsistencies is that there are 19 different committees that can authorize programs and no mechanism for organization. There are so many committees dealing with children & families that there is a chaotic web between the House and Senate committees and subcommittees. In addition, this confusing network does not include such things as appropriations, the budget process, or joint referrals of legislation to multiple committees.

There are 19 committees, 33 subcommittees and 10 executive agencies responsible for the 76 major programs dealing with children and families. As a result of this overlap, coordinating programs can not be developed and problems are created for state and local government, agencies, and children and families.

We can not deal with just slices of a problem. All of it needs to be dealt with at once. This can be done through 1) leadership from the leaders, 2) a structure for forming policy, and 3) better information about the consequences of legislation. A coordinated children and families vision should be developed for each Congress. There should be a structure for focus on children and families lead by a strong conscious with clout.

Arthur Sackler, Mailers Council

The Mailers Council supports the existence of the Post Office and Civil Service Committee. While we support the mission of the Joint Committee, reexamination does not always necessitate change. The Postal Service is the least known \$50 billion institution. It functions like a corporation, but it is not a corporation. There is no overarching check on the Postal Service other than Congress and in particular, the Post Office and Civil Service Committee.

The Postal Service is basically a local organization with local problems. The nature of the House makes it better for dealing with local problems. Following the Senate model and putting Post Office and Civil Service with Government Operations to form a Governmental Affairs Committee would destroy the function and oversight ability of both committees. There needs to be a standing committee in the House.

Allard: What about the need to reduce the number of committees and subcommittees?

Sackler: I have not studied that in detail, since the only expertise I have is on this Committee. We have worked with them and they understand how we work and what our needs are.

Panel Presentation by Gerald Leape, Karyn Strickler, Craig Van Note, and Andrew Palmer

Gerald Leape, Greenpeace and The Marine Fish Conservation Network

The Marine Fish Conservation Network consists of 25 conservation, commercial, and recreational fishing groups who have come together around a primary goal of making conservation the primary objective in U.S. fisheries management. Since our work is primarily with the Merchant Marine and Fisheries Committee, we are strongly opposed to dissolving this Committee.

The Merchant Marine and Fisheries Committee has built experience dealing with issues on the marine environment. They are the only committee with the knowledge to deal with the declining fish populations, an integrated ocean policy, conservation, and fisheries management. As the Committee has authority over these interrelated issues, they can ensure that laws are acting in tandem to complement each other and not at cross purposes. The institutional experience, the trained staff, the Members for whom oceans are a priority and the coordination of these issues in one committee is essential if we are to continue to make progress in national and international efforts to save our oceans.

Karyn Strickler, Endangered Species Coalition

The Endangered Species Coalition is a consortium of 78 groups ranging from environmental organizations to industry working to educate the public about the Endangered Species Act. First enacted in 1973 and reauthorized three times by the Merchant Marine and Fisheries Committee, the law is the cornerstone of our nation's commitment to protection of biodiversity. The Members and staff of the committee have acquired an expertise which has ensured the integrity of this important law as it relates to the environment and to long-term economic stability.

The Pacific Coast Federation of Fishermen's Associations (PCFFA) recently joined the Coalition. They provide an example of an industry that supports the Endangered Species Act because without it, many PCFFA members would be out of work due to a sharp decline in salmon population caused by damage to salmon habitat. The loss of plants and animals to extinction snuffs out untold chances for possible treatments and cures.

This complexity of the Endangered Species Act requires the experience which the Merchant Marine and Fisheries Committee has developed over the years. The abolition of this Committee would be counterproductive, invite legislative gridlock on this important issue, and bring the reauthorization of the Act to a

halt. In order to promote efficiency, please leave the Merchant Marine and Fisheries Committee intact.

Craig Van Note, Monitor

Monitor, a consortium of conservation, environmental and animal welfare groups believes that the dislvement of the Merchant Marine and Fisheries Committee would be counter-productive as it has become a powerful force in ecological protection.

The Marine Mammal Protection Act and the Endangered Species Act are landmark conservation laws that serve as the blueprint for other laws aimed at preserving our planet's natural heritage. Both wildlife conservation and the protection of marine life would be set back if the Merchant Marine and Fisheries Committee, which drafted these laws, were dismembered. In particular, protection of marine life would receive less attention in the terrestrial-oriented Committee on Natural Resources. The Merchant Marine and Fisheries Committee should be encouraged to continue its critical role in marine conservation and global environmental policy.

Andrew Palmer, Coast Alliance

In the 1980's we were fighting against policies that were undermining coastal programs. The success we have had is due to bipartisan support for programs and to the Merchant Marine and Fisheries Committee. The focused interests of the Members and its excellent professional staff were essential to protecting and improving these programs over the past 12 years.

Looking at the legislative record of this Committee reveals an extremely productive record. In areas relating to management and protection of coastal, Great Lakes, and marine resources, some 77 bills passed by the Merchant Marine and Fisheries Committee over the past two Congresses have become public law.

Emerson: We have had several witnesses express concern about the influence of special interests and the need to isolate Congress from them. Are you a special interest?

Leape: No, we have 2 million members. The Merchant Marine and Fisheries Committee listens to our ideas, but they use their own expertise to make the decisions.

Strickler: We do not expect the Committee to be a rubber stamp, but the expertise on the Merchant Marine and Fisheries Committee will produce the best possible law.

### Senator Byron Dorgan

The bulk of our problems are not from Congress not working. The problem is the gap between what people want and what they will pay for. We are not efficient, but we were not meant to be. We are, however, facing gridlock.

We must say to the American people that whatever we do to them, we will do to ourselves. We must impose the same obligations on ourselves that we put on others.

The explosion of committees and subcommittees has so fractioned issues that nothing is accomplished from looking at slivers. Jurisdiction is also fractured and there is fighting over who gets what piece.

In regard to floor procedure, in protecting the minority, we have given them the power to stop all action. Filibusters are out of hand. They are being routinely used to thwart the will of Congress.

### Questions and Answers

Boren: Right now we do not live under the laws which we pass. The House and Senate are approaching this issue in separate ways. Should we have one commission inside Congress to hear appeals instead of two? Should there be judicial review?

Dorgan: Yes in both cases. The kinds of things we do in running Congress, we should do together, not as two bodies. That will lend to greater efficiency and credibility.

Boren: The Intelligence Committee did away with subcommittees and it made us set priorities in the full committee. Some say that with fewer subcommittees, there will be less committee staff. A poll of Members found that they should serve on 2 full committees and 2 subcommittees in the House, and on 6 total committees and subcommittees in the Senate. If we say to all committees, except Appropriations, that they can have no more than three subcommittees, which would cut their numbers in half, should we make it a generic rule and let them determine which subunits to establish or should we say here are the specific subcommittees we think they should exist?

Dorgan: A generic rule makes much more sense. The committees will be better able to determine subcommittee jurisdictions. The proposal makes a lot of sense.

### Senator Larry Craig

The founding fathers designed the Senate differently from the House. The cloture rule, for example, is important for what the Senate is intended to be.



On budgetary matters, our success or downfall is in how the public perceives us. The country is governed through the budget, but we do not control the budget. It is a process out of control. We need a constitutional amendment for a balanced budget because we do not have the political will to fix the system. All heck will break loose for a short time, but eventually there will be a balanced budget. The incorporation of line item veto will allow the President to participate in the budget process. Using Current Dollar Base lines will allow us to get real with what we deal with. A cut will be a cut. Spending caps must be meaningful and there should be a return to sequestration.

Term limits would change the dynamics of the committee structure. Seniority would be gone. We are not living under the rules we place on others. If we are good at what we do, we can be here for a long time. We need to think about the future and provide for it. We have provided for life after Congress. We sell our businesses, come to D.C. and become permanent occupants of these halls. Term limits will come from outside, not inside. If we do not reform the budget process and get it under control, everything else we do will be of limited value.

### Questions and Answers

Boren: Vice chair Domenici has indicated that we should consider biennial budgeting, using the free year for oversight. What are your thoughts on this idea?

Craig: That is one of the items in my full text. You should take a good look at it and consider implementing it. It gives us time for oversight. It allows us to handle legislative affairs differently. There will be no omnibus bills. We will become better legislators.

Boren: If we decide not to change final majority rule, we still intend to tangle ourselves in other rules like the anonymous holds on bills. Should the motion to proceed be in order after a certain amount of time for debate on it? Should we consider streamlining preliminary steps to considering legislation?

Craig: I am open to looking at that, but we need to keep the fundamental power of the super majority.

Boren: Your arguments for term limits were interesting. We should be citizen legislators. Too many of us have lost touch with home. If we should do this too quickly, however, we could give too much power to the bureaucracy.

Craig: When we change from being critics to advocates our value to taxpayers decreases.

### Senator Dan Coats

I am a proponent of a two year budget cycle. One of our failings has been lack of time for oversight. We also need to examine how we judge ethics. It is not a radical idea to have outsiders judge a defendant. That is the basis of our legal system. We are currently held in low esteem, a dangerous situation. If we want respect, Americans must have confidence in us. No matter what policy we propose, if we are greeted with cynicism and skepticism, it is dangerous for the country.

How can we begin to objectively judge ourselves? The public perceives us as family judging family. To restore credibility, we need to set up an outside institution to judge the ethics of Members. We should form a commission comprised of two retired state or federal judges, two retired Senators and four private citizens to be appointed equally by the Majority and Minority Leaders. The commission will act as a grand jury to determine whether further investigation is warranted. If so, the commission will appoint an independent counsel with full investigative authority. Upon completion of the investigation, the independent counsel would be required to report his or her recommendations to the full Senate.

### Questions and Answers

Boren: Several witnesses have said that the Constitution requires the ultimate judgement to come from the Senate. The Senate must vote to determine the penalty. Could we have a commission for fact finding and recommendation purposes?

Coats: There are arguments on both sides of this issue. If the Constitution says that the Senate has to have the final say, it would not preclude having an outside panel involved to increase credibility.

### Senator Sam Nunn

We are going to continue to have perception problems for a long time no matter what we do. The federal government has been trying to tackle every issue. We can not, but we are trying anyway. We have too broad of an agenda. I fear that we will do a poor job of dealing with what only the federal government can do because of other obligations. The federal government is too big. It will stay that way until someone runs for President under the platform of dumping excess federal responsibilities and re delegating them to the states.

There is duplication between the budget, appropriation, and authorization processes. The same amendments and debates on each bill take place during all three steps. I support the Kassebaum proposal to merge the appropriation/authorization process. We should switch to a two year budget, but that will never work unless authorization and appropriation both are on a

two year basis. This would improve Congress and the Executive Branch. It would give us a chance to do oversight. The public perceives that we do not pay enough attention to programs and they are right.

Do not give the Intelligence Committee jurisdiction over tactical intelligence issues. Leave them in the Armed Services Committee.

The last six months have seen an erosion in congressional authority. An example of this is Somalia. President Bush made the decision to send troops while we were in recess. We have been involved in a military conflict, yet Congress has never spoken on the subject.

### Questions and Answers

Boren: What mechanism should have been used to take action in Somalia?

Nunn: A leadership committee that meets with the President on a regular basis. It should consist of 16-20 people on most occasions, but could be broken down to 4-6 people for really sensitive issues.

Also, there should be a two hour time limit on debating the motion to proceed. There is a two day rule for any legislation, but conference reports are treated cavalierly. They can come up at any time. They tend to come up at the end of session, so they receive less scrutiny.

Boren: Advocates of the plan to merge appropriations and authorization believe that it will reduce the tendency to authorize on appropriation bills. How should these committees be merged?

Nunn: When merging, take seniority as it is and compare the two committees.

Boren: Suppose that did not happen, would a two year budget cycle help stop duplication? Are there any ways we can strengthen the rules?

Nunn: I have seen authorizations on appropriation bills, it happens. If you go with a two year budget, you help the relationship all the way around. There will be more oversight and less of an obsessive focus on the budget. If you do not combine the committees, the rule of not appropriating without an authorization must be followed. Take the rule seriously at all levels. Duplication is counterproductive.

Boren: The budget resolution has been called counterproductive. Can we do away with the budget resolution and have broad budget reconciliation instead. What about the debate about the big bottom line budget?

Nunn: It depends on who was responsible for what. Would you still have budget guidelines?

Boren: Yes.

Nunn: Another suggestion is to form a budget leadership committee composed of the leaders of authorization committees. We need a fundamental change. The three way process is flawed. We are so caught up in budgeting that we do not conduct good oversight.

Boren: Our time has become fractured. We serve on so many committees and subcommittees that we can not do them justice. Should we limit the number of subcommittees? Should we identify the subcommittees or just say that each standing committee gets three?

Nunn: Either one is better than the status quo. I would leave it up to the standing committees, give them numbers.

Boren: Should we have a system so that each committee and its subcommittees always meet on the same day?

Nunn: Once the numbers of panels are reduced, that is entirely feasible.



## HEARING SUMMARY, JULY 1, 1993

One Witness: **Walter F. Mondale**

Co-Chairman Boren announced that today concludes six months of hearings on congressional reform. We have had 35 days of hearings, with over 200 witnesses and over 500 specific reform proposals. The Joint Committee is now involved with extensive consultations and briefings on the proposals. We hope to begin to mark-up after the August recess.

Walter F. Mondale, former Vice-President of the United States

It is only reasonable to revisit the basic organization of Congress from time to time. The world always changes faster than its institutions. Rules and committee jurisdictions from the 1970's do not necessarily fit today's Members and issues. Every reform you consider should be judged by the following question: To what extent will it enhance this institution's ability to think, learn, reflect upon, and debate the pressing issues facing our country? Looking back on my years in the Senate, I realize the tremendous amounts of time spent on matters that really did not advance the broad national purposes with which this institution should be concerned with, above all else. This problem has since gotten worse.

My complaint is not against inefficiency. The desire for efficiency should not distract us from the fundamental values of liberty and democracy that are the inspiration and reason for our system of government. Congress may actually need a more leisurely pace in order to carry out its most important responsibilities. Time has been Congress' greatest casualty. By this I mean the time to reflect, to read, to discuss, to debate. The focus must be on results: that means increasing the amounts of time this institution and its Members are able to allocate to discussion and debate of the big questions. Members must be protected from being trivialized, even compromised, in the exercise of their duties. Above all, a way must be found to allow Members to be Americans, the hectic schedules must be lessened.

There are four areas in which reform could be made to create opportunities for the kind of debates which our nation needs. First, there is the impact of campaign fundraising. Members of Congress simply spend too much time having to raise money. The need to raise the sums now required for reelection inevitably distorts a Member's concentration. It alters schedules, refocuses travel, gnaws at priorities, and crowds out time that should be devoted to making laws and shaping public policy. There may be no better argument for campaign finance reform than this. There is, however, one more thing at stake: the public trust. Campaign reform is one step towards winning back the public trust.

Second, the burdens on Congress caused by an overload of committees and staff must be relieved. Both have reached proportions that are unwieldy and

counterproductive. Each one tends to reinforce the other. The solution is a realignment of existing committee jurisdictions. Although the total number of committees and subcommittees has remained relatively stable for the past decade or so, the issues they deal with have not. It makes sense to occasionally readjust the road map to reflect the changing mix of traffic--consolidating some committees, eliminating others, and splitting still others. The problem is that committees and subcommittees, once established, seem to be eternal, regardless of how much the world and Congress change. Modernizing and streamlining the committee structure for a new world is no less urgent, no less necessary, than modernizing and streamlining our military structure. I would propose that Congress call upon a bipartisan group of distinguished former Members to provide advice on the best structure to meet the challenges this institution faces today.

To do the job well, every Member of Congress needs good staff, both in numbers and competence. Bright, hard-working staff inevitably create new demands and new work for Members. Staff can marginalize a Member's interests away from the broad issues that should be at the center of his or her attention. I have always benefitted from excellent staff, as has this Joint Committee. But Congress as an institution may not be well served by having too much of a good thing.

A third area I would mark for reform pertains to redundant legislative procedures. We need to clearly separate the authorization and appropriations functions. These are separate functions; there are good reasons why they should be separate, and we need firm rules to keep them separate. Two year appropriations should be considered. They will save time and lead to wiser use of federal funds. There also need to be tougher germaneness rules. It is a simple and useful test for amendments that will keep the workflow coherent and assure a tighter link between floor votes and legislative results. Time can also be saved by limiting statutory sunsets - an idea whose time has gone. It is better to leave basic legislation in place and change it by amendment when necessary, rather than reinvent the wheel every two years.

I would continue to support the current rules governing filibusters in the Senate. The right to carry the fight to the "nth degree" is essential to the role of the Senate. No other institution in our system of checks and balances can perform this task. The use of the filibuster, however, on what appear to be normal, even routine, legislative issues, may be weakening public support for the instrument. This is an area where there is absolutely no substitute for self-restraint.

I would urge this Committee to address the need for a more trusting relationship regarding the President's duty to faithfully execute the laws. One place to start is to move away from highly prescriptive bills towards broad general legislation, with systematic oversight of the President's execution of laws and programs. This change in statutory philosophy might also lead oversight away from the micro-management that absorbs so much executive time. Too

many of the President's key appointees are spending too much time on Capitol Hill defending their agencies.

All of my suggestions relate to making time available for Congress to give due consideration to the broad issues facing our nation. Congress is not in need of smarter Members and staff or better information. Nor will term limits or salary cuts concentrate Members' attention. What Congress needs is the capacity to address the problems of our nation, and what that requires is time. Every reform you consider should be measured against this critical standard.

The role of Congress in the world should not be underestimated. The nation and world suffers when it falters. The work of the Joint Committee goes to the heart of vital democracy.

### Questions and Answers

Hamilton: Our need of time has been a constant theme heard from our colleagues.

Dreier: There is a great deal of interest in two year appropriations. The argument against this has been that when there is a presidential election, there is always a desire for the new administration to set a new path. With two year appropriations, a new administration would be prevented from pursuing the new programs it was elected on. How can this problem be reconciled with a two year budget process?

Mondale: A new administration would not have to start from scratch because the budget would be in place. Eighty-five percent of the budget is not subject to change. There is no reason why the parts of the budget which a new administration wants to change can not be amended.

Dreier: As in supplemental appropriations?

Mondale: Correct.

Boren: Your point about our use of time and letting Members live like ordinary Americans is important. Time to reflect gives us perspective and allows us to be more productive. Our fractured attention span is a problem we have been grappling with. Is the solution strict, non-waivable limits on committee and subcommittee assignments? Should we adopt a generic rule that there be no more than three subcommittees for each committee, thereby cutting the number of subcommittees in half? Should we avoid grandfathering of the assignment limitations? What are your thoughts on these ideas?

Mondale: You have the right idea. There are too many committees and subcommittees, people are stretched too thin. Look at committee structure in terms of the world we live in and the future. If you were starting from scratch, what would you do? Come up with ideas this way. You can not grandfather;



that is what killed the Senate's Stevenson Committee reform. There is a growing tendency to have staff for constituency work and agency work in local and state offices. More and more local offices are being set up. This is becoming a bottomless pit which is driving Members away from the central purpose of their office.

Swift: Self restraint may be part of the solution, but the increased use of the filibuster is due to the fact that it is not costly to use it. If it became more inconvenient to use, would it be used with more restraint?

Mondale: In the Senate, Rule XXII is a high art form. There were times when the Senate stood alone as the only institution able to focus on issues. I do not know how you get self-restraint, but that is what is needed. I do agree that as a rule becomes less onerous, it is used more frequently.

Swift: The Joint Committee must ask if there are rule changes that can make up for the lack of comity in Congress?

Mondale: That is part of the same problem of time and perspective.

Lugar: There are time constraints because constituents expect more. One of the reasons why we have offices in our states is because constituents want answers right away. There are reforms that can make physical changes. It is a question of what role we should play.

Mondale: Constituent work is a very important part of a Senator's duty. A big change since I left here has been the rise in local offices. All that staff is not working on legislative matters. They are driving work that does not effect most important duties. Is there some place a line can be drawn?

Dunn: What are your thoughts on the area of compliance of Congress with laws that the private sector lives under. To what degree should Congress consider living under such regulations?

Mondale: As a general principle, rules that are good for American people are good for Congress. For example, you can not ask American people to protect the environment and then ruin it with federal institutions. This is a sacred institution. It should be noble in purpose and broad in vision. You do not want to impose on the ability to do this.

Dunn: What are your thoughts on whether the current ethics system adequately serves us?

Mondale: The American people want the highest ethics standards in public offices. The House and Senate need strong committees to respond to allegations and impose penalties.



Norton: Would you elaborate on your view of filibusters. Why do you regard filibusters with the reverence which you do? With the filibuster, you may see one person nullify the will of Congress and the President.

Mondale: This is a difficult issue. With the old rules, 66 votes were needed to end a filibuster. A small group could tie up everything. When the vote was dropped to 60, only more mainstream issues could be filibustered. The cap on post cloture debate has changed the filibuster more. The filibuster has less capacity to paralyze government. It was made easier to use and was more easily used. Now, it is being abused. I lived through a time when American liberty was threatened. Wars were declared without Senate knowledge. Money was impounded, the CIA was used secretly. The ability to ventilate the issue was the only answer. We needed the filibuster. It can not be done in the House. The Senate may be one of the more powerful chambers in the world. Power flows from the ability to ventilate.

Norton: The problem with broad general legislation is that it may cause more oversight, but it may also give agencies and courts the opportunity to provide their own interpretations.

Mondale: If we are going to deal with congressional reform, we have to look at relations with the Executive Branch. Detail is needed on central issues. My impression is that legislation is getting thicker and thicker as you try to anticipate every situation. There is a way to stand on the central, hard, broad issues. Let the minor issues be handled elsewhere, by regulation.

Allard: You talked about redundant legislation. I see redundancy in House and Senate procedure, witnesses testifying on the same subject on both sides. How can the House and Senate cooperate on matters?

Mondale: Try to get some ad hoc committees of former Members with executive experience and look at the problems and possible solutions.

Allard: What about more cooperation in the area of conference committees and reports? Could we codify the rules beforehand so we do not have to set them each time?

Mondale: Remember the problems that rise from the different germaness rules.

Domenici: We have been stressing that we ought to become more accountable for what we do, and that what we do should be understandable. We have no place to debate priorities. We should look for priorities.

Mondale: You need time available for the big issues. Here you do not know what you will be talking about tomorrow. With more time, you can get your perspective. If you can look at the big picture, the better off the country will be. The pressure of the last couple of years has pushed us in the wrong direction.

We have to show people that we can deal with the major issues. We must be accountable and responsible. Some things can not be fixed with rules. What is needed is self-restraint.

Hamilton: You were the principle sponsor of a proposal to establish a question hour. What do you think of that idea?

Mondale: The best time in the Senate is when our guard is down. When Senators are on the floor without staff or press, just discussing the issues. Senate rules allow former Presidents on the floor. Let them come, close the door and talk.

Swift: There is a lack of restraint with legislation. There are too many details. This is an overreaction by Congress. Abuse of rules, lack of restraint and comity lead to overreaction which leads to crisis.

Mondale: There comes a time when the Senate must stand up to officials who will not obey the rules. It is helpful if in the absence of abuse there is a return to some sense of comity and respect.

Boren: The level of partisanship is at a point where everything is being played on opposite poles even when it should not be. Some level of partisanship is good, healthy competition keeps us honest, but new Members do not know their colleagues of the other party.

Mondale: If that is true, that is tragic. A sense of fellowship, friendship, and respect across the aisle is what the American people have the right to deserve.

Boren: Hopefully, this Committee can start rebuilding that.

## HEARING SUMMARY, FEBRUARY 23, 1993

Five Witnesses: Senator Howell Heflin, Senator Trent Lott, Representative Henry J. Hyde, Representative Curt Weldon and Representative Robert E. Andrews.

Chairman Boren commenced the hearing by stating that this was the first hearing on specific topics of congressional reform. Today the committee will be discussing ethics and internal enforcement, with an emphasis on how to remedy the time constraints the current process produces and how to maintain public trust in Congress.

Senator Howell Heflin

Commented that while he was Chairman of the Senate Ethics Committee, an outside group of academic scholars looked at their procedures and made recommendations on improvements. Their report revealed that they did not fully understand the processes of Congress. Many people outside of Congress are not aware of what it means to be an elected representative.

Unless there is a clear breaking of the rules, the evaluation of ethical behavior is a subjective process. It is important to remember that ethical standards change over time.

If the two Houses had uniformity of rules and their interpretation, the process could be more easily understandable by the public.

An outside panel could play an important role only as an advisory or recommendatory group since Article 1, Section 5 of the Constitution states that the House and Senate must punish their own. They could even be given the power to do more than serve indictments, if there was agreement among Members. As members of the public may not understand congressional operations, former Members of Congress must be used. Judges and scholars, however, should not be part of the panel.

Suggested a four step method for handling charges of ethics violations. Step 1 would involve an internal body acting in a grand jury capacity. This body would decide whether to charge a Member with a violation. They could also dispose of the charge if there is unanimous agreement. Finally, this body could decide whether or not to bring in an outside panel, particularly in a case that is of public concern. Step 2 would involve an outside panel with the authority of a review board. Using the Ethics Committee staff, the panel would report directly to the Committee. Step 3 would involve the Ethics Committee acting as a jury, deciding how to dispose of the case. The Committee needs broader power. Although it can reprimand by agreement, it should be able to dispose of cases at the committee level and perhaps have the power to censure Members. Step 4 would involve the full Senate taking final action on the ethics charge.

Suggested a continual updating of the Code of Ethical Conduct that is annotated to the interpretive rulings of the Ethics Committee. In addition, there should be an annual orientation session on ethics for both Members and their staff.

The membership of the Ethics Committee should include a Member of highest seniority, a Member of the second level of seniority, and a Member from the lowest level. The presence of a senior Member would bring prestige and a range of experience to the Committee. With the high rate of staff turnover, the committee needs Members familiar with the history of past proceedings.

A statute of limitations system for making charges should be introduced. This would guard against the effects of dimming memories and the fact that changing mores affect the interpretation of an alleged violation that occurred 15 years previous to the charge. The system could be designed so that it is comparable to criminal law limits.

The use of a special counsel should be reserved for only certain cases because they are expensive and sometimes more interested in their own image than in Congress.

Guidelines for judging unethical behavior would be helpful in evaluating the gray areas where no actual law has been broken. In addition, there should be coordination between the Congress and executive agencies regarding the rules of what can and can not be done for a constituent.

The purpose of the media is to bring matters to public attention. Ethics is front page news, but care must be taken. A harmful or incorrect story can be erased, but smudge marks remain on both the accused and the institution. Care must also be taken to guard against leaking information when the rules call for confidentiality. So far, there is no solution for this problem. The first step would be to establish clear rules of administration for leaking.

### Questions and Answers

Boren: You feel that part of the procedure could be handled by a panel of former Members as long as they come back to the Committee with their findings and recommendations. Political Scientists Thomas Mann and Norman Ornstein proposed using a pool to draw names of five to seven former Members who would be asked to serve for a particular case. This would allow for a sharing of the responsibility. Is it advisable to have a joint pool so you could find people without a conflict of interest and therefore, for example, avoid having a former Member of the Agriculture Committee judging a present Member of the same Committee? Or should we just have a fixed panel of five members?

Heflin: The longer a former Member of Congress is in the world of changing mores, the less cognizant he or she becomes of these changes and their effects.



Service in the House and Senate is slightly different due to varying rules and atmospheres which cause differences in approaches and attitudes. There may be a conflict of interest in using former Members. For example, no one who is now working as a lobbyist could be involved in the process.

Allard: Does the current controversy over ethics stem from the problem of Members judging their own or from highly publicized charges of misconduct?

Heflin: The public is more conscious of ethical conduct than ever before. There is an evolution of the interpretation of ethical actions that can be seen through the issue of raising campaign money. When the public decided that "fat cats" were unethical, they were replaced with PACS, which soon also became unethical. The pursuit of money is always going to cause problems with ethics. There is a need to be realistic about the development of problems.

Allard: Are there any constitutional problems with the proposals to place people other than former Members on the panels?

Heflin: Yes, if these individuals serve in any capacity other than an advisory one.

Boren: The Committee must make the final decision?

Heflin: The decision making of the outside body must be restricted to recommendations.

Boren: Asked the witness to think about how extensive the power of the outside body could be without violating the Constitution. Would the panel perform all fact finding functions or just preliminary fact finding? Would its power stop at punishment? Finally, asked the witness to consider what would constitute an appropriate statute of limitations.

### Senator Trent Lott

In regard to this issue, the Senate can learn a lot from the House because the House has done a better job of dealing with ethics issues.

The use of outsiders would convolute and delay the process. It is our responsibility because of Article 1, Section 5 of the Constitution, and we must deal with the problem. Also, the current process is slow and cumbersome and this adds to the punishment of the accused. A timely process is needed. It is not fair to Members, the accused, or the public to have no closure.

The ethics code needs to be looked at. The House has a manual, but the Senate does not. Senators do not know if they can do the job for their constituents that they were elected to do. The rules concerning constituent service must be clarified so that Senators know what they can and can not do.

The Senate needs a definite trigger mechanism that will start the ethics system. Now, investigations evolve based on charges in the press. How the process begins should be clear because it looks bad to the public to not know why something like this is happening. A sworn complaint, signed and delivered, of a violation of a rule or ethics code should be required to begin the process. Once an investigation begins, goals of a time limit for the process should be set.

The special prosecutors often are also special counsels who serve the Ethics Committee, creating a conflict of interest. Furthermore, sometimes counsel for the charged does not appear before the Committee. This needs to be remedied.

In addition, it is necessary to educate both Members and their staff on the rules.

### Questions and Answers

Cohen: Commented that a statute of limitations system was necessary to achieve a speedy resolution. It must be decided whether to follow criminal or tort laws in this matter.

The system gives the appearance of a conflict of interest. Anything short of expulsion looks like a slap on the wrist and as though Senators are protecting their own. There is public pressure to not be seen this way.

Agreed with the need for an ethics code. Senators have to know what they can and can not do for their constituents. For example, is it appropriate to assist a company that asks for help in dealing with the IRS? What if individuals in the company had contributed to the campaign, either individually or as the company? There are no rules to define this type of situation. Without rules, these gray areas invite allegations of unethical behavior.

Lott: Using outsiders might cure the image of protecting our own, but the problems outweigh the beneficial effect. Deciding who is qualified to sit in judgement is a long process which will lengthen the entire procedure.

There are many steps in the procedure, but occasionally some are skipped. It is unclear to the media and the public as to why this is done. The process should be clarified so that it is understandable to others. Furthermore, a system is needed to keep the press advised of things which they should know. Communication with the press can be improved.

Pryor: An issue which must be addressed is that of the attorney fees of colleagues who are forced to defend themselves in front of the Senate Ethics Committee. The fees of these attorneys sometimes reach four or five thousand dollars. Recruiting retired attorneys to engage in pro bono work is one possible solution.

Agreed that the process takes too long. There are too many layers to go through while a colleague twists in the wind and is tried by the public. Those

charged with a violation have the right to a fair and speedy trial. While they may be fair, they are certainly not speedy.

Lott: Half of the Senate would not be able to pay high attorney fees. Finding affordable counsel is a problem to think about.

Dreier: What can the House learn from the Senate in regard to ethics procedures?

Lott: The House Committee on Standards of Official Conduct has worked well. However, it is large and you may want to reconsider its size.

Dreier: How do we address the problem of public confidence?

Lott: Clarification of the rules and specification of the process will promote understanding and confidence. This is an ethics conscious Congress because of all the eyes which are watching. As matters are handled well by the fixed process, support will be gained.

#### Representative Henry J. Hyde

Outlined three proposals that dealt with the House. The first two are concordant with the premise that Congress should be subject to the same laws it imposes on others. The third is aimed at cutting costs and streamlining ethics procedures.

The first proposal is to subject Members to the same restrictions on gifts and travel that apply to personnel of the Executive Branch. This would help unify standards throughout Government while placing Congress under the same restrictions it imposes on others. By requiring that the Member's office or committee pay for travel and then be reimbursed by the group sponsoring the trip, all payments would be a matter of public record leading to greater accountability and disclosure.

The second proposal deals with House Rules. Rule XLIII, the Code of Conduct, should become Rule I, indicating that all other rules flow from it. In addition, lying to Congress or impeding a congressional investigation should be a separate violation of the code punishable by appropriate sanctions. Even with belief in the Speech and Debate Clause, we are so critical of non-Members who lie to Congress that we can not allow ourselves to do the same thing. Finally, the unauthorized disclosure of classified information or material taken in executive session should be a separate violation of the code in order to fully protect such information.

The third proposal is to merge the Committee on House Administration, the Committee on Standards of Official Conduct, and the Commission on Congressional Mailing Standards into a single committee with parity of Members and staff. The new committee would then have jurisdiction over all ethical issues. The

investigatory powers of the Committee on Standards of Official Conduct would be retained. These powers should not be given to an outside panel. Outside individuals have no accountability for the consequences of their decisions while Members of Congress must face their constituents during re-election.

### Questions and Answers

Domenici: There has been concern about the number of committees and subcommittees, and many proposals to limit them. There has also been concern regarding overlapping jurisdiction. Are these problems that we should address?

Hyde: Addressing these problems will be a call for sacrifice on the part of the majority who will be losing many subcommittee chair positions. Political advantage can not take precedence over efficiency and progress. Both parties must take a hard look to see where jurisdictions can be combined in order to expedite congressional business.

Spratt: Commented on the point about Members lying to Congress.

Hyde: Explained the protection offered by the Speech and Debate Clause.

Spratt: Has the clause ever been used as a shield?

Hyde: There are times when Members are required to disclose information and they choose not to. Penalties should be imposed for this in the same fashion as when witnesses testifying before Congress behave this way.

Spratt: Have you ever served on the House Committee on Standards of Official Conduct?

Hyde: No.

Spratt: Could we get people to serve on a joint ethics committee?

Hyde: That would be difficult for Members serving on some of the more rigorous committees who would have to give things up. Hearings, though, could be made easier by diffusing responsibilities through subcommittees.

Cohen: There should be some uniformity between the House and the Senate. Although we are not dealing with campaign finance, do you think the House and Senate should have the same rules or different ones in this area?

Hyde: Certain principles should be the same. Fund raising should first be done in the home state so that allegiance will be to the constituents. There should be principle symmetry between the rules, with respect to the office.

Boren: What about the possibility of establishing a joint ethics committee?



Hyde: It may break up the perception of an "all boys club." There will not be the same feelings of protection with Senators judging Representatives and vice versa.

Boren: The idea of spreading fact finding among members of a joint committee is similar to the idea of drawing a panel from a pool. Both would deal with the appearance of conflict problem as well as spread the responsibilities of the task.

Hyde: That is a fine idea worthy of close consideration.

#### Panel Presentation by Representative Curt Weldon and Representative Robert E. Andrews

##### Representative Curt Weldon

Outlined a bill proposed, with Representative Andrews, to the House. The bill calls for the formation of a Citizen's Commission on Congressional Ethics. This commission would make recommendations and report to the Standards of Official Conduct Committee, and would have subpoena power. The commission would be a way to involve citizens in congressional oversight.

Members of the public would be appointed in equal numbers by the Speaker and the Minority Leader. They would be upstanding citizens with no connections to government or to lobbyists. This proposal is an innovative way to gain public confidence, by making the public part of the system.

##### Representative Robert E. Andrews

Congress has collectively been making a mistake by thinking as elected politicians instead of as the constituents who are represented. We have been misdefining who our peers are. They are not just fellow Members but ordinary citizens, because that is ultimately what we are.

The public believes that Congress can not police itself because it has a vested interest in the situation. Although Congress is fully capable of critical self-review, the public is not accepting this fact. A credible system for the public to believe in must be built. This can be done through peer/citizen evaluations of behavior. We believe this will work.

#### Questions and Answers

Boren: Have you considered the constitutional problem?

Weldon: That was kept in mind during the drafting. The Standards of Official Conduct Committee has not been abolished. The legwork is being given to citizens, but the ethics panel would take the final action and decide the level of punishment.

Andrews: Adjudicatory and sanction powers need to stay in the House. Investigatory powers, however, can be delegated to citizens.

Boren: It is true that citizens are our peers as we are not a specialized group like doctors, but ordinary citizens do not always understand the lives of representatives. Should some former Members of Congress be included so there is understanding of the institution and its demands?

Andrews: The participation of former Members should not be mandated. If it were, the conclusion that they were there to manage things could be drawn.

Boren: In the effort to restore trust, former Members could offer a perspective of how Congress works.

Domenici: The Senate would have many different situations to present to such a commission because there are no set rules on ethical behavior, only precedents and precepts. Would it not be necessary for us to define our rules before citizens have the opportunity to interpret them?

Andrews: A citizen would believe that it is necessary for the Senate to adopt rules similar to those of the House.

Weldon: There is no way to outline every situation. Citizens are capable of interpreting whether or not there has been unethical behavior.

Domenici: The Senate must take a serious look at what responsibilities would be turned over, and redefine its standards before deciding who should interpret them.

It is very likely that the accused will be seen as extreme or notorious for a political position or view. How do we assure that accused individuals are not judged by their political views?

Weldon: There is a control mechanism to deal with that. The party leaders have the power to choose citizens who will be unbiased. In addition, it is the Standards of Official Conduct Committee that makes the final determination of guilt or innocence.

Andrews: To prevent mixing ethical misbehavior with ideological views, there needs to be a clearly defined set of ethical rules. A moratorium on hearing complaints during inopportune times, such as before a re-election, will diffuse the possibility of people taking advantage of the commission.

Dunn: How would the pool of citizens, for party leaders to choose from, develop?

Andrews: The pool will develop from citizens who express interest and from the experiences of those selecting. These choices will most likely be scrutinized, so the leaders will have an incentive to make good choices.

Weldon: Scholars, "watchdogs," and activists are qualified and would probably be good at the task.

Dunn: Under what circumstances would an investigation begin?

Weldon: By either alleged complaints or by the existence of institutional problems, such as what to do with bonus miles earned for official House travel.

Andrews: There would be two paths to raising an ethics question: self-generation and citizen input.

Spratt: The time burden of ethics investigation would be shifted from the Committee to the citizen's commission. Would the commission have full-time investigators and counsel or would they be brought in from the outside? Is there a danger of the citizens becoming commissioners judging Members of Congress as the commission is institutionalized?

Weldon: The citizens on the commission will be paid. The commission will have a director and the ability to hire staff. The establishment of parameters can keep the commission from becoming unwieldy.

Spratt: Could the commission start investigations on its own?

Weldon: Yes.

Spratt: How will such investigations be started?

Andrews: Before public proceedings can begin, there must be the determination of probable cause.

Spratt: Will it be harder to maintain confidentiality?

Andrews: No. If probable cause is found, then all the rules of due process will apply.

Spratt: Will the commission hold public hearings?

Andrews: Yes, after finding probable cause.

Spratt: What happens when the process is turned over to the full Standards of Official Conduct Committee? Can the accused appeal and get another hearing?

Andrew: Yes, if there is probable cause for it.

Norton: Then, the ethics committee could ignore the commission and start the process over?

Weldon: Yes.

Norton: But that would be adding steps to the process instead of simplifying it.

Weldon: If responsible commissioners are chosen and a good job is done, there will not be a need for another hearing.

Norton: The United States Supreme Court has ruled that Congress can decide how to do its own work. If the commission is a delegation of congressional authority, then why would the work need to be redone? A process of constant appeals will not improve the procedure. Do any states have commissions like this?

Andrews: At the local level, school boards, municipal and county governments, New Jersey has similar systems.

Weldon: The same is true of Pennsylvania.

Norton: Would the commission report to a superior body?

Weldon: Yes.

Andrews: The general rule of the commission is that their power is only recommendatory. Sanctions will not be imposed by citizens.

Norton: Will there be specific qualifications for members of the citizens commission?

Andrews: That will be left to the discretion of the party leaders.

Norton: Discussed other proposals such as not using judges, using former Members, accounting for conflicts of interest, and creating a pool.

Do you have an opinion on any of these suggestions?

Andrews: The pool idea is analogous to a jury, it is a good idea.

There is justification for a second level of review from the commission to the ethics committee. The work should be repeated if there is a question of fairness or due process.

Norton: Expressed concern about the repetition of investigation as it will encumber rather than streamline the process.

Andrews: Repetition is a fair price to pay to gain public support and due process.

Norton: A trial denovo is hard to get in the justice system. Why are we making it easy to have things done twice in this context?



Spratt: Since citizens are not experts in this task, it is necessary to have a mechanism to ensure that things get done correctly.

Andrews: Favors denovo review, but this can be studied.

Norton: New trials in the judicial system are not granted without evidence of a mistake. We should not make it easy in this context.

Boren: Standards can be set to judge when errors mandate that a new hearing should be held.

Andrews: Our basic concept is to institute peer review.

Boren: We need to get away from the appearance that we are judging ourselves. A trial denovo would place us back in that position. Guidelines must be set to decide if a mistake has been made and if the case should be sent back for a new hearing.

## HEARING SUMMARY, FEBRUARY 25, 1993

Six Witnesses: Representative Louis Stokes, Representative James Hansen, Alan Rosenthal, Dennis Thompson, Harold Bruff, and John Saxon.

Chairman Hamilton commenced the hearing by stating that the Committee's work in the ethics area was crucial for increasing public understanding of how ethics is handled in Congress. Most Americans believe that Congress is ethical, but the misdeeds of a few Members have put a cloud over the entire institution.

Panel Presentation by Representative Louis Stokes and Representative James Hansen

Representative Louis Stokes

Discussed the current "bifurcated" House enforcement procedures which were the result of the work of the 1989 House Task Force on Ethics of which he was a Member. Listed the ethical reforms adopted as a result of the Task Force's work, such as further limits on gifts and travel, the banning of honoraria, and changes in the procedure of the House Committee on Standards of Official Conduct [the "Ethics Committee"]. Indicated that the Task Force hearings showed criticism of the House Ethics Committee including unfair procedures and the perceived lack of due process in the system. The Task Force report indicated a desire to increase public confidence in the House; hence the reforms adopted for the House ethics procedure -- bifurcation, statute of limitation for investigations, limitation on House Ethics Committee service, and the creation of the Office of Advice and Education.

Expressed belief that the current House system of discipline, in place since 1989, is sound even though it has yet to be tried. It removes the perceived bias in the old system where the grand jury, petit jury, and judge were the same.

Described the House Ethics Committee's workload during his years as chairman and mentioned that it showed the House's ability to discipline Members when necessary. Therefore, does not think there is any basis for radical restructuring of ethics enforcement procedures.

Expressed concern with proposals to shift Congress's constitutional responsibility to enforce ethics procedures to outsiders. Wrongdoing should be dealt with by the judicial process, the voters, and when necessary, by Members of Congress. The latter are the best judges in terms of knowledge and accountability. Why would an outside group, not accountable to Members or the voters, do a better job?

Thought that the idea of drawing on sitting Members by lot to have a part in ethics investigations had merit. However, noted that the danger would be getting Members unfamiliar with the process or who do not want to serve.

### Representative James Hansen

Mentioned that he had worked on 27 ethics cases in his 12 years on the Committee on Standards of Official Conduct, on which experience his comments were based.

Agreed with Representative Stokes that an outside group should not handle ethics investigations. Said it would be difficult for a group other than the House Ethics Committee to assist in cases because the 14 Members of the Committee are the ones familiar with the process and know what is going on.

Stated that there had never been a partisan vote in the 14-Member bipartisan Committee, during his service on it.

Praised the new office of Advice and Education which saves the Members of the Committee time by giving advice to colleagues. Said the Committee was once compared to the Gestapo or the IRS, but now Members see it as trying to help keep them out of trouble.

Felt it is important to continue the Ethics Committee in the House because it has done a good job. There has been no "sweeping under the rug," as has been charged by the press.

### Questions and Answers

Hamilton: We all have to deal with the public's perception of how well we deal with ethics cases. There is an inherent conflict in Members investigating other Members with whom they have to work every day. We need to respond to the public's charges of an "old boy or old girl" network.

Stokes: This is a legitimate concern. I don't know anyone who has sought service on the Committee, but Members serving on it know that they have an obligation to protect the institution. Someone has to do it, and the Committee Members know they are under scrutiny. The question is, can we judge a colleague fairly? There has never been a case decided in the Committee on a partisan basis. The case of former Speaker Wright is an example of that. That case showed that the Ethics Committee Members had the capacity, determination, and integrity to do what was right.

Hansen: Agreed that the Wright case, which he expected to be a partisan "bloodbath," was done in an impressive, objective way. Said the perception of the press is not a reality of what went on in the Committee in that investigation in particular and others in general. Criticized the press' handling of this issue.

Said the institution is more important than any individual, and that the new bifurcated system should be given a chance.

Hamilton: Would it be unconstitutional to let non-Members handle ethics cases?

Stokes: I am not making a constitutional argument that it must be done by Members.

Emerson: Senator Lott suggested that the House procedures are better than the Senate's, and that the Senate could learn from the House. How do you feel about a Joint House/Senate Ethics Committee?

Stokes: The House is ahead of the Senate, especially with its office of Advice and Education. There are similarities in matters before both committees, but we need two separate committees.

Emerson: What about merging ethics rules, so Members of both Houses can be judged by the same standards?

Stokes: There is some merit to that.

Hansen: The public often criticizes the Ethics Committees, but most of the criticism is directed at the other body. The public would be wise to look at what we've done, but in reality, will it?

Emerson: Is there a mechanism to convince a skeptical public that the ethics procedures are fair? The press does so little to educate or elucidate. How do we come to grips with that?

Stokes: It is difficult to answer. Congress should never release statements during the course of an investigation. During my service as committee chairman, we tried to handle an investigation like a grand jury; we didn't always give the media "meat" to sell papers.

Hansen: Due process is necessary so we have to keep quiet during an investigation. However, during the House bank case we did release progress reports. Agreed with Emerson that it is a tough question on how to protect the due process of the person being investigated. We need to exercise discretion regarding what we tell the press so that the case being investigated isn't prejudiced.

Lugar: Talked about the House process, about the time an ethics case takes, and the number of steps in an ethics case. Is it possible to truncate the ethics procedure, to get rid of the expensive, arduous steps of the trial-like procedure?

Stokes: Under House procedure, we have to do something once a complaint is filed. Initially, a complaint can be dealt with quickly to see if it merits further inquiry. Nevertheless, it is difficult to move quickly because of due process concerns.



Hansen: The press makes things seem slower than they are. Some cases are easier than others. It is the "nature of the beast" we're dealing with that dictates the lengths we have to go to complete an inquiry.

Lugar: Why do we become involved in the case of a Member whose situation is being dealt with by the courts? Do we need an ethics committee at all? Can't we just refer complaints to the courts?

Stokes: The public's perception is the answer. In the House, we do not interfere with the courts or the Justice department; we wait until they have disposed of a case. We have to take some action to deal with the public's concerns. We can't abolish the committees.

Hansen: Some of our work wouldn't be within the jurisdiction of a court. Also, sometimes the courts wait for us to act.

Lugar: I am confused over the kinds of issues we deal with in-house, such as those related to the "Keating Five," harassment, and the misuse of authority, that can not be tried elsewhere.

Hansen: There has always been confusion about the ethics code vis-a-vis the laws. The standard in Congress should be higher than whether or not someone commits a felony. The Ethics Committee looks to see if a Member's actions reflect credibly on the House, not whether a crime has been committed.

Lugar: However, some actions of Members are crimes as well as violations of House Rules. It is difficult to decide which we should consider and which the Justice Department should examine.

Stokes: I don't know of any rule that has caused more trouble than House Rule XLIII, clause 1 which states that a Member of the House shall conduct himself in a manner which shall reflect credibly on the House at all times.

Lugar: There is a dilemma in substituting our judgement for that of constituents.

Hansen: All Members realize that constituents are the ultimate judge.

Domenici: Agreed that tumult exists because there is less confidence in the institution, and not because Congress is less ethical. Can you estimate how many House Members have been the subject of politically motivated charges?

Stokes: There are so many frivolous complaints in an election year that the Committee adopted a resolution that no complaints would be considered 60 days before an election.

Hansen: The vast number of complaints are without merit.

Domenici: We are looking for new mechanisms, new judges. I want reform to include an ethics system that is as rapid and simple as possible, and that gets rid of politically motivated complaints quickly. In the Senate, ethics cases are expensive for Members who are up against the Ethics Committee with its own good staff resources. We can not have Americans think that anyone can just go and file a complaint against a Member.

Stokes: It is impossible to simplify, even in cases where a Member is vindicated.

Domenici: I would like a list of complaints to get an idea of how many Members have been the subject of complaints.

Hamilton: Agreed that this would be a good idea.

Spratt: Some say that an outside group involved in the ethics process would not be fair, yet others say we can not judge our own. What are the practical problems of an outside group?

Stokes: If you exclude former Members, the problems would be having people who are not familiar with the institution, its mores, and customs. With former Members, there could be conflicts of interests if they are lobbyists and in contact with incumbent Members. Things change here. Even former Members on an ethics panel might not be familiar with how things had changed in Congress. We shouldn't try to dodge our responsibility to police our own.

Hansen: Members have been sensitive to incorrect press accounts of our work. History doesn't support statements that we haven't been fair. We are driven by the nature of a case at hand. Unless we allow outside groups on the House floor, there is an inherent, practical problem.

Stokes: It would be better to have Members react to the concerns of constituents rather than to use an outside group not close to the people.

Spratt: I believe that it is the institution's responsibility to police itself. No need has been shown for an outside group.

Domenici: Would you agree that the House proceedings are fair because they are bipartisan?

Stokes and Hansen: There is a sense among Members of the Committee that they have to get the right decision on behalf of the institution.

Panel Presentation by Alan Rosenthal, Dennis Thompson, Harold Bruff, and John Saxon

Alan Rosenthal

Commented on State legislative ethics. Asserted that legislators and legislatures are being unfairly accused. Ethical behavior today is better than in the 1960's, but public perceptions and standards have risen and press scrutiny intensified. Legislatures cannot seem to catch up.

The volume of State ethics legislation has been large in the past decade. Also, several agencies share overall ethics jurisdiction in most States.

Stated that he knew that the Joint Committee was weighing the merits of an outside ethics commission on the one hand and an inside ethics committee on the other. Said he had a preference -- albeit a grudging one -- for the independent commission.

Offered that some legislative ethics committees have played a useful role and that they have one significant advantage: Members understand the legislative institution and process, and thus should be able to make good judgments. However, this advantage is outweighed by severe difficulties such as Members' reluctance to serve on these committees and no incentive to pursue any ethics agenda.

Also it is a no-win situation for Members because their colleagues are likely to accuse them of succumbing to outside pressures such as the press. If these committees perform well, they will not be perceived as having done so. In sum, legislators can not satisfactorily regulate their own ethical behavior.

The other alternative -- an outside commission -- is not without problems. These problems should not be discounted, but it is possible for legislators to live with them.

In the States, the more laws there are, the greater the need for an ethics agency separate from the legislature. Currently only California, Kentucky, and Connecticut have independent commissions.

Legislators can not expect comfort from independent ethics commissions and the same sympathy they would get from colleagues. There has been an adversarial relationship between the California legislature and the independent commission. However, the California and Connecticut ethics commissions have been strong and fair. On balance, they appear to have worked.

### Dennis Thompson

In 1980, he recommended to the Senate an outside body to investigate ethics charges. The idea had no support then, but now the idea is respectable enough to warrant discussion. He still favors this approach.

The basic idea is that no one should be the judge in his own cause. An outside ethics body prevents biased judgments by eliminating the inherent conflicts of interest that are natural between the judge and those judged -- decisions would be rendered on the merits of the case. An outside group also promotes public confidence in the process.

Citizens naturally assume that there is a biased judgment when a legislature judges one of its own. The citizens really have no way of knowing what the reality is and have good reason to assume the worst. It is a problem of perception.

There are objections to external disciplinary proceedings. First, unlike the case of other professions, Congress does not control who joins its profession. Some other professions, such as law, have not been so successful in self-regulation. Second, there is a difference between Congress and other professions because Congress is already accountable to an outside group -- the voters. Third, Congress' constitutional responsibilities give reason not to have a completely independent agency or commission to enforce ethics standards.

### Harold Bruff

Stated that he is chairman of the ABA's new committee on the congressional process. The committee's job is to study aspects of the congressional process for which administrative lawyers may have useful insights, and to offer recommendations first to the ABA and then to Congress.

Because of the separation of powers issue, Congress should be the final judge in cases. The preliminary work could be done elsewhere.

It is a matter of trading one set of advantages for another. There is no perfect solution. For example, outsiders in a preliminary investigation may gain from removing Members of Congress. Outsiders also don't have a full understanding of what's going on. An outside group could perform a persuasive clearing function. However, Congress has the final responsibility in disciplinary proceedings.

Anything you craft should "marry" the rules of behavior to the structure chosen to police them. Everyone hopes that ethics investigations will be rare, so the rules should be geared to avoiding problems. There is a need to strengthen the advice giving function. Also, making internal actions open to public viewing -- your own disclosure -- may prevent some problems. In addition, there is a need for a referral process. For example, referring election season complaints to the FEC will help avoid problems.



Problems inherent with congressional self-discipline are also found in institutions (such as the ABA) that discipline professions. These include collegial empathy and professional solidarity. The advantage, however, is that the judges have a full understanding of the issues.

Self-disciplining bodies as small as the House and Senate can create conflicts of interest. Also, if Congress disciplines itself, it will consume some of Members' most precious commodity -- time.

Asserted that bifurcating the process has merit, and that if former Members are used in the process critics could charge that solidarity survives retirement.

Emphasized that the congressional disciplinary process is and should remain an extraordinary event in Congress. Creative thinking should focus on ways to avoid resorting to the disciplinary process.

#### John Saxon

Drew on his experience from having worked on two Senate ethics cases, one of which resulted in a Senator's resignation before certain expulsion for conviction on ABSCAM-related bribery charges.

We are in a new era in which public officials are losing the opportunity for public atonement.

The goal of ethics regulations, namely improvements in procedures, should fit into the broader framework of the congressional codes of conduct.

Any changes should maintain high standards of ethical conduct, enhance public confidence, not interfere with effective functioning of government, preserve the integrity of the process, promote the principles of openness in government, insure better public policy, purge the system of corrupt officials, and promote greater governmental accountability.

The disciplinary process should be bifurcated to reduce the burdens on Members and meet the goals of fairness.

Congress should at least experiment with outside disciplinary panels which include some, but not all, former Members. This would give balance to an investigation. Stated that outside panels would give the appearance of fairness, free up incumbents, be less of a burden for Members, as well as serve as a buffer.

Emphasized the importance of due process in a congressional disciplinary proceeding.

## Questions and Answers

Boren: Exonerating and punishing Members is difficult. We need a balanced panel, that includes people who have knowledge of Congress. With respect to the makeup of an ethics panel, would a fair compromise be a mix of members, with former Members comprising less than a majority of the members on an outside panel? Would you limit their work to indictment/grand jury process and finding of fact, short of punishment?

Thompson: I agree that former Members should be on an outside panel. But remember, they carry weight. Also, continuity is important; that is why I am skeptical of "pools." Fact-finding should be part of the duties of an outside group.

Bruff: The former Members on the panel could help to educate the other members of the panel. Also, the panel should stop short of recommending sanctions.

Saxon: For fact-finding, it is necessary to understand the congressional environment. An outside group should stop short of recommending sanctions, and its members should have security clearances.

Rosenthal: The number of former Members on an outside panel is not important.

Cohen: If we have an independent commission that deals with fact finding, could it make any public statements about what it finds?

Domenici: I am under the impression that generally when outside commissions are created, the public's perception of institutions do not change.

Thompson: If the right procedures are in place, reasonable members of the public will have confidence in the institution.

Bruff: You will get the public's confidence if the system is changed and the changes yield good results.

Saxon: Some effect will be made if Members tell the public and the press that they are sensitive to issues.

Domenici: Changing the public's perception should not be a goal.

Spratt: How do you think the two tiers in an ethics investigation should relate?

Bruff: If the system is bifurcated, there would be a permeability problem. We are inviting ourselves to formalize the relationship between the two, but my instinct is not to favor a formalization of the relationship.

Spratt: Could the fact-finders resist making recommendations?

Thompson: If they have no formal recommendation function, maybe they should be able to express themselves. I would hope that the members of the outside commission would not be free to speak out in public. Perhaps this could be a law.

Spratt: Is any outside body for advice and education needed?

Saxon: The House function should be continued.

Norton: We need a convincing rationale. Are legislators like doctors and lawyers? Can we convince the American people that we need peer review for the same reason that everyone else has it?

Rosenthal: Legislators should not make the determination on their conduct.

Bruff: The processes of the Ethics Committees need review because of the loss of public confidence, and for fairness to the respondents. We need to reinstate structures and rules of behavior to see if they are out of sync with the public's expectation.

Thompson: Legislators are not the only victims now under suspicion about their ability to police themselves.

Norton: I see an awkwardness in having an outside group, not a constitutional problem. Are there any precedents or problems for us if we have an outside ethics group?

Saxon: My concept of an outside group is that there be a showing after the group comes up with the facts.

Norton: What good is it to take facts from the fact-finders at the next phase? What harm would there be in receiving recommendations from them?

Saxon: It could cause a political problem. There could be criticism.

Sarbanes: What is your perception of the effectiveness of these internal bodies to educate Members on rules? We need to mount a thorough educational effort. Is there any place in the country where this is done?

Rosenthal: I am searching for that State. In general, legislators are too busy to attend ethics training. California requires biennial ethics training for legislators and lobbyists.

Saxon: More ethics training is needed. Do not presuppose that all of your colleagues are well versed on the ethics code.

Thompson: I agree that there is a need to legitimize and make respectable discussion of ethics issues. The Office of Government Ethics has mounted a massive, successful ethics education program for Executive Branch employees.

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## Congress of the United States

JOINT COMMITTEE ON  
 THE ORGANIZATION OF CONGRESS  
 ROOM 175D FORD HOUSE OFFICE BUILDING  
 Washington, DC 20510-0775

February 12, 1993

TO : Members  
 Joint Committee on the Organization of Congress.

FROM : Jack Maskell, CRS Detailee to the Joint Committee,  
 Legislative Attorney, American Law Division.

SUBJECT : Background, Issues in Reform of Internal  
 Congressional Disciplinary Procedures.

This memorandum is submitted in response to the Joint Committee's request, as discussed with the Joint Committee staff, for background and summary information on the issues of reforming the procedures in legislative ethics enforcement.

#### Background

The enforcement of legislative *ethical standards* and congressional codes of conduct, as opposed to federal statutory laws, are handled internally in each of House of Congress. The Constitution expressly authorizes and provides that each House may "determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member." Article I, Section 5, clause 2.

#### History

Prior to the 1960's, there was no full-time or standing ethics committee in either the House or the Senate. Complaints of misconduct or behavior abusive to or disruptive of the proceedings and privileges of either House of Congress were generally referred to an *ad hoc* special or select committee in the House or Senate for investigations, determinations and recommendations. A matter concerning misconduct was also referred at times to a standing committee which normally had jurisdiction in other areas, such as the committees on the judiciary, or the rules or administration committees. There were no specific set of rules for proceedings in disciplinary matters, nor was there a written code of conduct or a written set of ethics rules.

The House in 1968, and the Senate in 1964, established for the first time standing committees on ethics to which complaints of



misconduct and resolutions for disciplinary action would be referred, and where Members and employees might also seek advice and opinions on matters of ethical standards. In 1968, a written code of conduct was for the first time adopted in the House and in the Senate. The standing committees on ethics in the House and the Senate were intended to develop expertise and precedents in the area of legislative ethics, conduct, and disciplinary actions. Disciplinary proceedings in the committees now follow detailed procedural rules, and if warranted, evidence is eventually taken in formal hearings presided over by a panel of members of the Committee who are sitting Members of the House or the Senate, respectively. In the House, the disciplinary procedure since 1990 has been "bifurcated", wherein a subcommittee of Members of the standing committee will review the initial charges and will conduct the preliminary investigations. If more formal ethics charges are to be heard (upon the issuance of a "Statement of Alleged Violations"), then another subcommittee made of the remaining Members of the House Committee on Standards of Official Conduct hears the evidence and makes disciplinary recommendations.

Any formal disciplinary action, such as a censure or expulsion and, in the House, a reprimand, is recommended by the ethics committee to the respective body, and there voted upon by the full House or Senate. Both the House and Senate Committees have also issued letters of reproof or reprimand on their own accord to Members, but this is not considered a formal disciplinary action by the institution.

#### *Proposals in Area*

A number of commentators and Members of Congress have criticized the congressional disciplinary procedures, noting the difficulties inherent in internal and collegial ethics enforcement. Several proposals have been made to amend the disciplinary procedures in the House and Senate to provide for some form of a panel, consisting of persons who are *not* sitting Members of the body, to hear evidence of alleged misconduct of Members, and make the recommendations for discipline, either to the full House or Senate directly, or to the standing ethics committee which would then report the matter to the full body.

Some of the recent proposals in this area include:

- H. Res. 43, 103d Cong. (and H.Res. 465, 102d Cong.) Representative Weldon (and Representative Andrews): Would establish Citizens' Commission on Congressional Ethics made up of 14 private citizens, 7 appointed by Speaker, 7 appointed by minority leader, with approval of House, of persons who are not former Members or former government employees, or have not been lobbyists, within five years. The Commission would hear evidence and make recommendations to the House Committee on Standards of Official Conduct on disciplinary matters of Members, officers and employees.

- S. Res. 190, 102d Cong. Senator Helms (and Senator Lott): Substitutes 6 private citizens for the six Members on the Senate Select Ethics Committee. Two of the citizens are to be retired Federal judges, two others former Senators. The members of the Select Committee would serve without compensation.
- S. Res. 221, 102d Cong. Senator Coats: Would establish an Independent Ethics Commission made up of 8 members, four appointed by the majority leader and four appointed by the minority leader. Of the four appointed by each, one member would be a retired judge, one member a former Senator, and the other two private citizens not employed by the Federal Government. The Commission would review complaints and, if warranted, appoint an Independent Counsel to conduct a full investigation. The Independent Counsel would report directly to the Senate findings and recommendations for disciplinary action. Would abolish the Select Committee on Ethics and transfer its other function to the Senate Rules and Administration Committee.
- S. Res. 327, 102d Congress. Senator Bond: Would establish an Independent Senate Ethics Commission comprised of three retired judges of a federal or State court, one appointed by the majority leader, one by the minority leader, and one jointly on the recommendation of the other members. The Commission would receive complaints and determine if further investigation is warranted, would conduct investigation and hold hearings, and report directly to the Senate its findings and recommendations for disciplinary action.
- H. Res. 526, 100th Cong., Representative DioGaurdi (and Representative Frank): Would establish a permanent Public Review Board to investigate alleged ethics or code violations by Members and staff, and after notice and hearing, may submit a recommendation for disciplinary action to the Committee on Standards of Official Conduct.

#### Problems and Issues

Critics of current congressional disciplinary proceedings have argued that the inherent and structural "conflicts" in congressional self-discipline are the causes of what is seen by some to be an apparent reticence of Congress to enforce ethical standards against its own Members. Members must cooperate to a large extent with one another in the legislative process, and thus there is a natural reticence for Members to do something detrimental to one another. Many Members are now reluctant to serve on an ethics committee, where the proceedings may take a great amount of one's time, and where the Member may be subject to criticisms from the public if perceived as being too lenient, or from congressional colleagues if perceived as being too harsh.

Actual disciplinary actions by the full Senate or House have, in fact, been relatively rare. The Senate has "censured" only 8 Senators in its history, and has not expelled a Member of the Senate since the Civil War. (Fourteen Senators were expelled during the Civil War for disloyalty to the Union, and one other Senator expelled in 1797, also for disloyal conduct). The House has censured 22 Members (actually, 21 Members and 1 Delegate), and "reprimanded" 7 others, while expelling only 4 of its Members in its history, three during the Civil War for disloyalty to the Union, and the most recent expulsion in 1980 after conviction for bribery in congressional office.

The low number of actual disciplinary actions may be attributable to some degree to the fact that many Members, facing such disciplinary action, prefer to resign from Congress rather than to pursue the matter. In other instances, the voters have taken care of the matter by either not re-nominating the Member in a primary, or voting the individual out of office in the general election before disciplinary action is completed. Many commentators feel that for conduct which does not affect the proceedings of the institution itself, the voters, by way of the ballot box, are the proper judges of the conduct and fitness of the Member, and Congress should not interfere with that judgment.

There has been some concern expressed about providing for an independent, non-Member commission for ethics, in that Congress will be abdicating a constitutional and institutional responsibility for self-protection. Although a difficult task, it is one assigned each House of Congress by the Constitution. There is also a fear that if non-Members more frequently recommend censures and/or reprimands, such actions may lose their importance and potency as a statement of strong congressional disapproval and "punishment".

In sum, some of the problems and issues raised with the current practices in congressional self-discipline, and reasons for a more "independent" ethics commission, have been suggested to be:

- Perception by public that internal self-discipline presents inherent "conflicts" for Members who have difficulty judging their peers.
- Perception that a "club" atmosphere pervades in the House and Senate to protect a Member from strong disciplinary recommendations.
- Members of the Senate and the House are reluctant to serve on the Ethics Committees because of the large amount of time and attention that formal disciplinary hearings require.
- Members are reluctant to serve on the ethics committees because, regardless of what ethics recommendation might be made, the public perceives anything short of expulsion as only a minor penalty for a Member.

- Providing for a more independent examination of the evidence and the making of disciplinary recommendations may provide more appearance of impartiality in judging a Member's conduct.

Some of the factors which may argue against having "independent" commissions involved in the congressional disciplinary process:

- Members of Congress may be seen as shirking their constitutional duty and their institutional responsibility to punish their own Members.
- Disciplinary action may be left in the hands of those who do not have the working knowledge and appreciation of the factors and realities of congressional life, service as a Member of Congress, and the currently accepted norms of ethical behavior in Congress.
- More frequent censures or, in the House, censures or reprimands, may dilute the impact of such actions taken by the institution.
- An independent commission may make ethics proceedings more cumbersome, adding another layer of procedure, and may make such proceedings overly legalistic and technical, as opposed to what may be a more summary, collegial exercise of peer discipline.
- Enforcement of congressional ethics may not be totally "independent" of Congress, or else "Speech or Debate clause" immunity issues may arise.



## SUMMARY OF OPTIONS FOR CONGRESSIONAL ETHICS PROCEDURE REFORM

### I. OUTSIDE, INDEPENDENT ETHICS COMMISSION

#### A. Structure of outside, independent commission

1. A permanent commission operating and staffed to handle ethics matters.
2. A "stand-by" pool or panel of persons from which to chose members when an ethics matter reaches the stage where an outside commission or panel is required.

#### B. Membership of outside, independent commission

1. Commission or panel made up only of former Members of the Senate and/or the House.
2. Panel or commission made up of highly qualified, informed private citizens chosen by the leadership.
3. Have the panel be a joint panel of former Members and private citizens.

#### C. Duties, role of outside, independent commission

1. Investigatory, "grand jury" function
2. Hearing, "trial jury" function.

### II. OUTSIDE, INDEPENDENT HEARING OFFICER

### III. CITIZEN ADVISORY PANEL

### IV. CURRENT MEMBERS CHOSEN BY LOT

### V. OPTIONS FOR REFORM OF SENATE ETHICS COMMITTEE

- A. Bifurcate, Separate Investigatory and Adjudicatory Functions
- B. Statute of Limitations
- C. Mandatory Ethics Training for Members and Staff
- D. Educational and Advisory Arm or Subcommittee of Senate Ethics Committee
- E. Specific Time Limitations for Various Procedural Steps
- F. Written Ethics Manual or Annotated Code of Ethics
- G. Align Senate and House Ethics Rules

## OPTIONS FOR CONGRESSIONAL ETHICS PROCEDURE REFORM

### I. OUTSIDE, INDEPENDENT ETHICS COMMISSION.

Provide for an ethics commission made up of persons who are not current Members of Congress to investigate and/or hear ethics complaints concerning current Members, officers and employees.

#### A. Structure of outside, independent commission.

1. A permanent commission operating and staffed to handle ethics matters.

Pro -

- May develop expertise and familiarity with subject matter.
- Will be fully operational and available to expedite ethics complaint procedures.

Con -

- May institutionalize, and create an additional ethics enforcement bureaucracy whose only job and reason for being is to investigate and recommend punishment of Members.
- Permanent ethics commissions in States have developed adversarial attitude/relationship toward legislature, spurred on by press and/or public criticism of perceived "leniency" of commission.
- May involve a waste of funds/resources to have permanent salaried staff and commissioners who are only called upon to investigate/hear complaints on relatively rare occasions.

2. A "stand-by" pool or panel of persons from which to chose members when an ethics matter reaches the stage where an outside commission or panel is required.

Pro -

- More efficient use of funds and resources to utilize commissioners and staff only when needed.
- Would not "bureaucratize" and institutionalize another ethics enforcement agency.
- Provides more flexibility to choose different commissioners on different occasion if Congress wants.

**Con -**

- Time taken in selecting and staffing commission each time may delay ethics procedures and bog down process even further.
- No continuity in enforcement and interpretation.
- No expertise built up in commission.

**B. Membership of outside, independent commission.**

1. Commission or panel made up only of former Members of the Senate and/or the House.

**Pro -**

- Former Members know intricacies of ethics issues, and acceptable/unacceptable conduct in Congress.
- Former Members will give credibility, weight, and acceptability to findings for current Members.

**Con -**

- Limited number and availability of former Members who could serve without conflict of interest.
- Reduced appearance of "impartiality" to the public, and more appearance of continued "inside" activity.

2. Panel or commission made up of highly qualified, informed private citizens chosen by the leadership.

**Pro -**

- Greater independence from Congress and from current Members.
- Recommendations, findings may have more credibility with public.
- Greater pool of persons to choose from.

**Con -**

- Private citizens may lack sensitivity and working knowledge of the intricacies, complexities and subtleties of the issues in congressional ethics.
- May produce unrealistic recommendations and standards, losing credibility and acceptability in Congress, and subjecting Congress to unwarranted criticism if recommendations not followed.

### 3. Have the panel be a joint panel of former Members and private citizens.

#### Pro -

- Would have more independence, and appearance of impartiality than all Members or ex-Members panel.
- Could balance private citizens with ex-Members familiar with Congress.
- May provide more credibility in Congress of findings compared with all outsider panel.

#### Con -

- Formers Members may dominate and "manage" panel, and provide less independence.
- With ex-Members on panel may still not satisfy critics complaining of "insider" ethics enforcement.

### C. Duties, role of outside, independent commission.

#### 1. Investigatory, "grand jury" function

In this option an outside panel, however constructed, would take over an ethics matter after the ethics committee decided that a complaint warranted further investigation (a low evidentiary threshold). The outside panel itself would investigate the complaint, collect evidence, take depositions, and would then decide whether a Member would be formally "charged" with an ethics violation. If so charged, the formal hearing on the allegation would be before the full ethics committee membership. This would be somewhat analogous to an "independent counsel" procedure in the executive branch (with regard to criminal misconduct) where the Attorney General requests an independent counsel who then investigates and if warranted seeks a grand jury indictment for trial.

#### Pro -

- Would allow outside, independent participation, but still leave formal adjudicatory function, hearing evidence and recommending particular discipline, to Member ethics committee.
- Allows Members on ethics committee to have full participation in hearing the evidence and seeing the witnesses personally, and so to knowledgeably report to Members of the full Senate or House for floor action if deemed warranted.
- Would permit Members of ethics committee to be alleviated from burden of participating in long investigatory function.



Con -

- Still leaves adjudication and disciplinary recommendation in hands of Members of Congress, and thus may still raise questions of conflicts of interest, partiality, and protecting one's own.
- Members on the ethics committee would not be alleviated of the time burden of sitting through formal adjudicatory hearing, and then deciding recommended discipline, if any.
- Does not alleviate much time burden on Members of ethics committee since much of the function of the proposed independent panel is now performed by committee staff and not Members.

## 2. Hearing, "trial jury" function.

In this option, the independent panel would be the body which actually holds the formal, evidentiary hearing on the record, after some referral from the ethics committee of an ethics matter. Ethics committee would apparently investigate a complaint, and decide if it warranted a formal hearing, and then would trigger the independent panel hearing.

Pro -

- Would provide great degree of perceived "impartiality" in hearing and recommendation.
- Would alleviate Members of ethics committee from time burden of having to sit through formal hearings.

Con -

- Members of Congress would not be hearing and evaluating evidence and witnesses first hand, and would be voting discipline for a peer only on formal record established by outside group.
- If record to be completely reviewed by ethics committee before recommendation to floor, may unduly lengthen disciplinary process by providing second "hearing" or review by committee.

## II. Outside, Independent Hearing Officer.

Leave the make-up and functions of the ethics committees substantially the same, but provide for the hiring of an impartial, independent hearing examiner, agreeable to both majority chairman and minority vice-chairman, who would preside at formal disciplinary hearings, make rulings, and break any tie votes of the ethics committee members.

## Pro -

- Saves expense of funding an entire outside commission and staff for ethics proceedings.
- Allows sitting Members to participate in all phases of ethics proceedings, including hearing evidence, and so to exercise institutional and constitutional responsibility over the conduct of other Members.
- Provides for a greater degree of independence and appearance of impartiality than is currently provided for in House or Senate procedures.
- Provides a "compromise" between the status quo on the one hand, and the more drastic change of a completely independent, outside panel.

## Con -

- Does not alleviate time burden on Members of ethics committee concerning the long investigatory and hearing procedures.
- May not alleviate perception of "insider" ethics enforcement, and the conflicts of interest inherent in such a system.
- Potential difficulties in finding "independent" hearing officers with sufficient expertise in congressional procedure and precedent.

## III. Citizen Advisory Panel.

Establish a "citizen advisory committee" for ethics enforcement in the Senate and/or House which would be appointed by leadership, and made up of luminaries from certain professional fields, e.g. academicians, clergy, judiciary, which would provide advice, consultation, and public citizen input into the ethics committee consideration of complaints against Members. Power would be advisory only, would recommend but not have a formal vote in Committee.

## Pro -

- Provides citizen input, perspective into congressional ethics enforcement considerations.
- Retains authority and discretion for congressional self-discipline totally within the institution itself and its Members.
- Does not dramatically or radically alter the manner in which congressional discipline has been traditionally done, and so allows for continuity and retention of precedent.

Con -

- Citizen participation may be seen as and criticized as only "token".
- May subject Congress, Members to criticism if citizen advisory recommendations or advice is ignored by Committee or the institution.
- Does not save Members from time burden in either investigatory or hearing stages of ethics enforcement.
- Does not significantly alleviate perceived inherent "conflict of interest" in congressional self-discipline.

#### **IV. Current Members Chosen By Lot.**

When a matter has been investigated, and a formal hearing is to be conducted, the Members of the Senate or House who actually participate in the formal hearing would be drawn from lots among the regular, sitting membership of the body.

Pro -

- Spreads the time burden of service on the committee among larger group of Members during disciplinary hearings.
- Keeps disciplinary matters in more traditional hands of the Members of the institution.

Con -

- Defeats one of the major purposes of the standing ethics committee, that is, to develop expertise on ethics matters.
- May involve Members who have even more potential conflict of interest problems, vis-avis the respondent Member, than regular ethics committee Members.
- Does not eliminate appearance of "insider" ethics enforcement.

#### **V. Options for Reform of Senate Ethics Committee.**

Several options exist and have been suggested for reforms of the ethics procedures which would most likely apply only to the Senate, but in some cases (such as mandatory ethics training for Members) could apply to both the House and Senate.

**A. Bifurcate, Separate Investigatory and Adjudicatory Functions.**

Would provide that the functions of investigation and reporting out ethics "charges" be separated, as to staff and Members participating in such functions, from the function of adjudicating, that is, holding formal disciplinary hearing on the record.

**Pro -**

- Would provide more "due process" to respondent Member as different panel would be hearing evidence from those who participated in investigation of charges in the first place.
- Would divide duties of Members on Committee and potentially alleviate some time burden of being involved in entire process.

**Con -**

- May require more Members to be appointed to the Committee so that subcommittees of sufficient numbers may be formed for different tasks, as in House.
- Might bog down and delay ethics procedure by overly formalizing investigatory stage.
- It may be preferable to have Members who must decide on final recommendation to the floor to be personally and closely involved in and familiar with all phases of the disciplinary matter.

**B. Statute of Limitations.**

Provide a certain time limit, such as 5 or 6 years from the time a particular complainant knew about the conduct subject of the complaint, or 5 or 6 years from the actual time of the conduct, beyond which the Senate Select Committee would not be authorized to investigate complaints of ethical misconduct.

**Pro -**

- Increases "due process" for respondent Member who does not have to try to defend charges which may be many years old, when memories of witnesses and principals of precise facts may fade.
- Would require more timely and relevant filing of charges by complainants.

**Con -**

- Reduces flexibility of institution, and limits traditional discretion of the Senate to punish, by censure or expulsion, reprehensible conduct which may reflect discredit upon the institution.



**C. Mandatory Ethics Training for Members and Staff.**

Require both Members and staff to take a formal, annual ethics training or briefing. Names of Members who fail to attend required briefings in any year may be published in Record to encourage attendance.

**Pro -**

- Increases staff and Members' knowledge of and sensitivity to complex ethics rules, issues and dilemmas in Congress.
- Would stress importance, emphasize serious nature of ethics rules and consequences to Members and to public.

**Con -**

- Would increase time burdens on Members of Congress.
- Members may object to formal requirement for mandatory training, may have difficulty in acceptability of proposal.

**D. Educational and Advisory Arm or Subcommittee of Senate Ethics Committee.**

Create a separate advisory and education office or subcommittee of the current Senate ethics committee (similar to the structure in the House), with a separate staff than those involved in the investigation and disciplinary aspects of the Committee.

**Pro -**

- May encourage Members, staff and others to ask for advice before acting if such persons are not intimidated by "disciplinary" character of office.
- Could provide increased emphasis on preventative education, training, and advice.

**Con -**

- May require more, duplicate staff and more bureaucracy in a time when cuts in staff and budget are being required.
- May be very inefficient use of staff, particularly if separate permanent staff are only to be involved in formal disciplinary investigations, which are relatively infrequent in Senate.

**E. Specific Time Limitations for Various Procedural Steps.**

May wish to provide for specific time limitations for each step of a disciplinary process.

**Pro -**

- Would provide for a more expedited disciplinary process.
- May be more fair to the respondent member of Congress who would not have ethics charges "hanging" over him/her for prolonged period of time.

**Con -**

- Could impair flexibility and discretion of committee investigating charges.
- May provide more incentive to respondent parties to attempt to delay and not cooperate with investigation if time limits are binding and matter may need to be dropped.
- May not serve ends of justice or fairness if committee is compelled to hurry investigation or devote less time and thoroughness to a matter than committee feels was warranted.

**F. Written Ethics Manual or Annotated Code of Ethics.**

Suggestions have been made for the Senate ethics committee to follow example of the House and produce either a written "ethics manual" with a narrative about different subject areas and the applicable ethics rules and interpretations, or to annotate the Senate Code of Official Conduct with the disciplinary rulings of the Committee to provide ready examples of the meaning of the Rules.

**G. Align Senate and House Ethics Rules.**

Although the House and Senate rules on ethics and codes of conduct are substantially similar now, there are some small variations in the codes which could be brought into line if the two bodies wish to have identical ethics rules.

The Joint Committee on the Organization of Congress  
Database of Positional Statements

*This database was prepared by Committee staff as a tool for our Members. This is not for re-publication or attribution. This matrix is an attempt to accurately reflect the views of our witnesses but should not be used as a substitute for the actual hearing record.*

## ISSUE AREA 1: ETHICS

### List of Options Proposed

1. Outside, Independent Ethics Commission
2. Membership of Outside, Independent Ethics Commission
3. Duties of the Outside, Independent Ethics Commission
4. Outside, Independent Hearing Officer
5. Current Members Chosen by Lot
6. Bifurcate Senate Process: Separate Investigatory and Adjudicatory Functions
7. Statute of Limitations
8. Mandatory Ethics Training for Members and Staff
9. Specific Time Limitations for Various Procedural Steps
10. Written Ethics Manual or Annotated Code of Ethics
11. Align Senate and House Ethics Rules
12. Joint Ethics Committee
13. Miscellaneous Comments

Proposal: Outside Independent Ethics Commission

## ETHICS:

### 1. Outside, Independent Ethics Commission

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Representative Goss	2/4, 43, 144	
	Representative Hansen	2/25, 5-6	
	Representative Hyde	2/23, 26	
	Representative McDermott	4/22, 1047-1048	
	Representative Stokes	2/25, 4	
	Ribicoff, Abraham - Former Senator	2/16, 17	
	Rudman, Warren - Former Senator	1/28, 6	
For	Perot, H. Ross - Private citizen	3/2, 49-50	
	Representative Andrews, Robert	2/23, 33-34	
	Representative Bonilla	2/4, 223	
	Representative Weldon	2/23, 32	
	Rosenthal, Alan - Academic, Rutgers University	2/25, 26	
	Saxon, John - Former Counsel to Senate Ethics Committee	2/25, 35	
	Senator Bond	2/2, 33	
	Senator Boren	2/23, 30	
	Senator Byrd	2/2, 9	
	Senator Coats	2/23, 59-60	
	Senator Glenn	6/24, 61	
	Senator Heflin	2/23, 5	



Proposal: Outside Independent Ethics Commission

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Senator Helms	2/23, 62	
	Senator Murray	4/1, 41	
	Thompson, Dennis - Academic, Harvard University	2/25, 28	
	Wertheimer, Fred - Common Cause	6/29, 77	
For, Stand-by <sup>1</sup>	Mann, Thomas - The Brookings Institution	2/16, 155	Recommends large pool designated by each chamber to be called up when needed for specific task. The Majority & Minority Leaders would choose members from pool for ad hoc duty
	Ornstein, Norman - American Enterprise Institute	2/16, 155	
Undecided	Brock, William - Former Senator	4/20, 25	
	Bruff, Harold - Academic, George Washington University	2/25, 31	
	Representative Foley	1/26, 24-25	
	Representative Gephardt	1/26, 40	
	Representative Michel	1/26, 40	
	Senator Lott	2/23, 17	

<sup>1</sup> These witnesses supported the proposal and favored the "Stand-By" structure option.

## ETHICS:

### 2. Membership of Outside, Independent Ethics Commission

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Citizens <sup>1</sup>	Representative Andrews, Robert	2/23, 34	
	Representative Weldon	2/23, 32	
Combination  (These Witnesses favored a Commission made up of a combination of Former Members, Private Citizens, and/or Former Judges, or AT LEAST one of the three.)	Bruff, Harold - Academic, George Washington University	2/25, 38	
	Mann, Thomas - The Brookings Institution	2/16, 155	
	Ornstein, Norman - American Enterprise Institute	2/16, 155	
	Rosenthal, Alan - Academic, Rutgers University	2/25, 38-9	
	Saxon, John - Former Counsel to Senate Ethics Committee	2/25, 35	
	Senator Bond	2/2, 33	
	Senator Boren	2/23, 36	
	Senator Coats	2/23, 60	
	Senator Helms	2/23, 62	
	Thompson, Dennis - Academic, Harvard University	2/25, 38	
Former Members <sup>2</sup>	Senator Byrd	2/2, 9, 18	
	Senator Hefflin	2/23, 5	
See Note	Frenzel, Bill - Former Representative	1/28, 14	Opposes use of Former Members for Independent Commission
	Representative Bonilla	2/4, 223	Citizens or Citizen/Member
	Representative Norton	2/16, 41	Judges should not be included

<sup>1</sup> These Witnesses favored a Commission made up ONLY of Private Citizens.

<sup>2</sup> These Witnesses favored a commission made up ONLY of Former Members.

## ETHICS:

### 3. Duties of the Outside, Independent Ethics Commission

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Both  (These witnesses favored a commission which would serve as BOTH as a "Grand Jury and as a "Trial Jury")	Representative Weldon	2/23, 32	
	Senator Bond	2/2, 33	
	Senator Boren	2/16, 61-62	
	Senator Byrd	2/2, 9	
Grand  (These Witnesses favored a commission which would perform ONLY the "Grand Jury" function.)	Bruff, Harold - Academic, George Washington University	2/25, 38	
	Ornstein, Norman - American Enterprise Institute	2/16, 32	
	Saxon, John - Former Counsel to Senate Ethics Committee	2/25, 38	
	Senator Coats	2/23, 60	
	Senator Heflin	2/23, 5	
	Thompson, Dennis - Academic, Harvard University	2/25, 38	
See Note	Representative Bonilla	2/4, 223	Advisory capacity

Proposal: Outside, Independent Hearing Officer

**ETHICS:**  
**4. Outside, Independent Hearing Officer**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Ornstein, Norman - American Enterprise Institute	2/16, 33	
	Representative Stokes	2/25, 4	
	Senator Lott	2/23, 18	
For	Senator Coats	2/23, 60	Special counsel with full investigative authority upon recommendation of the independent commission.



Proposed: Current Members Chosen by Lot

**ETHICS:**  
**5. Current Members Chosen By Lot**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
See Note	Representative Stokes	2/25, 5	Having Members chosen by lot to decide whether charges are proven by the Committee has "merit"

**ETHICS:**  
**6. Bifurcate Senate Process: Separate  
 Investigatory and Adjudicatory Functions**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Bruff, Harold - Academic, George Washington University	2/25, 70	
	Representative Hansen	2/25, 10	Speaks of weakness of bifurcation; 2/25, p. 5
	Representative Stokes	2/25, 3	Admits that the bifurcated system is untried
	Rudman, Warren - Former Senator	1/28, 5	
	Saxon, John - Former Counsel to the Senate Ethics Committee	2/25, 34	
	Senator Heflin	2/23, 4	

Proposed: Statute of Limitations

## ETHICS:

### 7. Statute of Limitations

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Senator Cohen	2/23, 19	
	Senator Heflin	2/23, 7	
	Senator Lott	2/23, 16	

# ETHICS:

## 8. Mandatory Ethics Training for Members and Staff

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Rosenthal, Alan - Academic, Rutgers University	2/25, 48	
	Saxon, John - Former Counsel to the Senate Ethics Committee	2/25, 48	
	Senator Boren	2/23, 9	
	Senator Heflin	2/23, 7	
	Senator Lott	2/23, 18-9	
	Senator Sarbanes	2/25, 49	Characterizes his idea of good training; 2/25, p. 47
	Thompson, Dennis - Academic, Harvard University	2/25, 49	



**ETHICS:**  
**9. Specific Time Limitations for Various  
Procedural Steps**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Senator Cohen	2/23, 19	
	Senator Lott	2/23, 17-8	
	Senator Pryor	2/23, 22	
See Note	Senator Domenici	2/25, 20	Should get through the preliminary decisions upon allegations' merits very quickly

# ETHICS:

## 10. Written Ethics Manual or Annotated Code of Ethics

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Representative Andrews, Robert	2/23, 37	
	Senator Boren	2/23, 9	Update the code by annotating interpretive rules
	Senator Cohen	2/23, 20	
	Senator Domenici	2/23, 37	
	Senator Heflin	2/23, 6	Update the code by annotating interpretive rules
	Senator Lott	2/23, 17	
See Note	Representative Weldon	2/23, 37	Suspicious of practicality of codification – "almost impossible"

## ETHICS:

### 11. Align Senate and House Ethics Rules

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Representative Andrews, Robert	2/23, 37	
	Representative Hyde	2/23, 30	
	Senator Heflin	2/23, 4	
Un-decided	Representative Hansen	2/25, 11	Believes Senate can gain from looking at House rules
	Representative Stokes	2/25, 11	Believes idea has "great deal of merit"

Proposed: Joint Ethics Committee

## ETHICS:

### 12. Joint Ethics Committee

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Representative Stokes	2/25, 10	
Un-decided	Representative Hyde	2/23, 30-31	Agrees that it is a "fine idea and worthy of close, serious consideration"



## ETHICS:

### 13. Miscellaneous Comments

NAME OF WITNESS	MISCELLANEOUS COMMENTS
Bruff, Harold - Academic, George Washington University	Consider criminal enforcement for policing Congress; 3/25, p. 72
Mann, Thomas - The Brookings Institution	Ornstein-Mann proposal unique in its total form. Refer to discussions on 2/16, pp. 41-42, 154-156
Ornstein, Norman - American Enterprise Institute	Ornstein-Mann proposal unique in its total form. Refer to discussions on 2/16, pp. 41-42, 154-156
Representative Andrews, Robert	"[Public] perception is the litmus test" for ethics reform; 2/23, p. 36
Representative Hyde	Make lying to Congress a violation; 2/23, pp. 25-26.
Representative Stokes	Concerning the House, Mr. Stokes is "troubled by calls for further procedural reforms"; 2/25, pp. 3-4
Senator Domenici	There will be "very little gain" if Ethics changes are made for sake of public perception"; 2/25, p. 41
Senator Lott	House Ethics Committee too large; 2/23, p. 23; need definite trigger mechanism for the process; 2/23 pp. 17-18
Senator Lugar	Suggests a need for clarification of Ethics jurisdiction; asks if should crimes be handed over to the courts; 2/25, pp. 16, 18

## HEARING SUMMARY, MARCH 4, 1993

One Witness: Dr. Robert Reischauer

Chairman Hamilton opened the hearing by making a brief statement, remarking that the budget process should accomplish three basic purposes: that it should allow ordinary citizens to understand the fiscal actions of the government, that it should promote long term thinking about the endeavors of government, and that it should be honest.

Senator Stevens also made an opening statement, declaring that the budget process should be more forward thinking, and help promote long-term planning. He also suggested that forward looking congressional budgets could give the President more guidance in constructing budgets that would have a realistic set of spending goals and priorities.

Dr. Robert Reischauer

Outlined the historical roles of the budget process. The longer-standing role, he suggested, was to prescribe the general rules and procedures for making budgetary decisions. The more recent role is to focus on questions of deficit reduction, as codified in the Gramm-Rudman-Hollings Act in 1985 and 1987, and the Budget Enforcement Act in 1990. Overall, the budget process gives Congress the capacity to look at budget aggregates and to decide priorities, and these are important functions.

The success of the budget process, especially in its more recent role as a vehicle for deficit reduction, is gauged in terms of both fairness and flexibility. The shortcomings of the Gramm-Rudman-Hollings process can be ascribed to the fact that these attributes were seen as lacking. In particular, it failed to identify specific budget participants who were responsible for the deficit, a problem compounded by the fact that most entitlement spending was exempt from its rules. As a result, its rigid strictures tended to penalize discretionary accounts regardless of whether they had already been cut in the effort to reach the deficit target. The Budget Enforcement Act of 1990 was designed to overcome these flaws and, for the most part, it has done so successfully. The Budget Enforcement Act makes it far easier to identify those responsible for departures from the budget agreement, and penalizes only those responsible. Overall, the lesson of these two efforts to control spending and reduce the deficit is that the budget process is far better at enforcing policy decisions already made than it is at requiring Congress to make policy decisions to implement a non-specific requirement to reduce the deficit.

Emphasizing that the process is more useful for some purposes than others, he gave a brief description of some proposed reforms, as well as their pros and cons. Biennial budgeting is deceptively attractive as a possible reform. It posits that Congress could structure the process so that it would need to make budgetary

decisions every other year rather than annually. The complexity and volatility of Federal budgeting, however, is likely to reduce or eliminate potential workload savings.

The President's role in the budget process is one that needs to be examined carefully because of balance of power concerns. A joint budget resolution might help involve the President more fully in the budget process, but it might simply create a new avenue for conflict. The line-item veto or statutory alternatives would involve the President in the management of budgetary details. Although often discussed as a mechanism for deficit reduction, the experience of States with such mechanisms is that it is would surely become a mechanism for enforcing presidential spending priorities at the expense of Congress.

Reforming coverage of the budget and the information it contains might be helpful, but some proposals, such as separate capital or trust fund budgets, would move the Federal Government away from the unified budget, and thus distort the general design.

### Questions and Answers

Hamilton: Is the budget process too complex, and is it too easily manipulated?

Reischauer: It is complex, but that is unavoidable. Much of the complexity stems from Congress adding controls to a relatively simple process originally established under the 1974 Budget Act. It would be somewhat naive to assume that a budget process which attempts to control a budget the size of the Federal Government's could be simple. Stated that he wouldn't want to comment on the possibility of an overall restructuring of the process for simplification. On the second part of the question, suggested that CBO has generally not been criticized for deliberate inaccuracies.

Stevens: What about the scoring of the Social Security tax increase in President's Clinton's economic plan as a spending decrease? This has been attributed by some to CBO.

Reischauer: The effect is based on prior [not current] CBO estimates, but the categorization as a spending decrease originated with the President.

Stevens: Suggested that the rules of the budget process had been described as being made to be disobeyed by those who know them, and asked what could change this to make the rules work better.

Reischauer: Asserted that both the Congressional Budget Act and the Budget Enforcement Act are working well under adverse circumstances.

Stevens: What about the difference between budget authority and outlays? Does this present particular enforcement problems?

Reischauer: Yes, particularly concerning the allocations to defense accounts since these often have slower spendout rates.

Stevens: Does this have an effect in the differences between House and Senate enforcement procedures?

Reischauer: Yes. Controlling both budget authority and outlays may be a case of too much restraint. Pointed out that the Senate has the authority to change this point of order if it wants. Also took this opportunity to speak about Congress being virtually unique as a legislative body because it had established and maintained information agencies with far greater independence and autonomy than other legislatures.

Spratt: I take it from your statement that you are not in favor of biennial budgeting?

Reischauer: Especially not under current circumstances, which require a more continuous involvement in budgeting than a biennial cycle contemplates.

Spratt: What about collapsing the authorization and appropriations processes?

Reischauer: Stated that he did not think it was appropriate to comment on that.

Spratt: Have Gramm-Rudman-Hollings and the Budget Enforcement Act been helpful overall?

Reischauer: Yes. Both because they've done some positive good, and because they've constrained Congress from making the problem worse.

Spratt: Commented on the fact that the process was still missing a mechanism for controlling entitlements.

Reischauer: Agreed, and suggested that this was partly attributable to the fact that Members and the public both desired stability and predictability of entitlement payments. Even so, much of the deficit can be attributed to entitlement programs.

Spratt: What about the possibility of an entitlement cap?

Reischauer: Entitlement programs are generally constructed in ways that don't lend themselves to across the board cuts. A simple cap could not be easily implemented. If cuts based on specific contingencies could be written into the law, that system would be more effective. But if this could be done, it might make more sense to simply carry through with the cuts than to make them contingencies.

Dreier: Agreed that the problem of entitlements and their contribution was the biggest challenge for the budget process.

Reischauer: Especially in the area of health.



Dreier: What about other entitlements like agricultural subsidies?

Reischauer: Agricultural programs do not comprise a significant portion of spending. They tend to be more comparable in dollar terms to annual increases in health entitlements than to total health entitlements.

Allard: Remarked that he would like to see greater simplicity in the process. Can you name two things that would help?

Reischauer: Asserted that it is probably not possible in the present circumstances to have a process that is truly simple.

Allard: Is the process truly under the control of Congress?

Reischauer: Yes, but the President is necessarily involved.

Allard: What about the States? Do they serve as possible models for simplicity?

Reischauer: No. The idea that State budget processes are simple is a myth. The structures and controls are often at least as complex as the Federal process. Additionally, States are not isolated enough to engage in fiscal policy separately, so attempts to do so (such as deficit spending) would not be effective.

Reid: Are there better ways to insulate CBO politically?

Reischauer: That's not necessary.

Reid: Was the Budget Enforcement Act successful, or was it deceptive?

Reischauer: Remarked that it was a success. The increase of the deficit over 1990 projections was primarily attributable to the economy not improving sufficiently and to errors in making estimates, not to congressional intent.

Obey: Took issue with some of the statements in Reischauer's testimony. What about the idea that politics make a better constraint than the budget resolution; that the budget resolution's numbers and controls only present the illusion that Congress is controlling the process, spending, the deficit, etc.

Reischauer: The state of the economy demonstrates that to be the case. Asserted, however, that the budget resolution is itself an expression of political will, and the extent to which it was an illusion showed that political will was as well.

Emerson: What is your impression of a joint budget resolution?

Reischauer: There are pros and cons to it. It would involve the President in early, direct negotiations with Congress on the budget, but there would be the possibility of stalemate.

Domenici: What if a joint budget resolution were to default to the previous year's numbers if the President and Congress failed to agree?

Reischauer: This probably wouldn't make all that much difference. Historically, the President and Congress haven't had major disagreements over aggregates, just the details of revenues or spending.

Domenici: The Congressional Budget Act established an interesting balance of power within Congress: the Budget Committees have high visibility, but relatively little authority. Added that the Senate's enforcement of the budget resolution uses both budget authority and outlays because the spendout rate is important, as demonstrated by a number of cases in the early 1980's.

Obey: Agreed that there were cases in the early 1980's when the lack of controls over outlays allowed budget authority (designated in the budget resolution) for slow spending programs to be spent instead on fast spending programs, providing an illusion of budgetary control while increasing current spending without effecting budget totals.

Domenici: The budget resolution is therefore not necessarily the authoritative vehicle for the Clinton economic plan because it deals in aggregates.

Reischauer: Yes, it leaves the details to be settled later.

Domenici: Reconciliation is also a weaker mechanism for control than its reputation would seem to indicate. Remarked that he would like to see CBO do a study of reconciliation, including authorizations, the effect of extraneous provisions, and the extent to which out-year effects have canceled out first year savings.

Boren: What was the fastest or earliest enactment of reconciliation?

Reischauer: Stated that he did not know for certain off hand, probably 1981.

Boren: So the reconciliation process could be used to press for fast enactment of the Clinton economic plan?

Reischauer: Yes.

Boren: Would it be possible to have periodic updates of projections to monitor the effects of congressional actions?

Reischauer: Those projections required now demand tremendous efforts in terms of necessary resources.

Norton: Remarked that she liked the distinction made in Reischauer's statement about the process not being good at forcing undefined policy actions.

Reischauer: Any reform of the budget process should be driven by structural and organizational concerns, not by a desire for particular budgetary outcomes alone.

Cohen: Simplification in the tax code often leads to an increase in evasions. Is the opposite also true, and does it apply to spending?

Reischauer: The analogy doesn't really apply across categories; spending is not the same as revenues.

Cohen: On the subject of capital budgeting, what is and is not an investment is a crucial question. In your opinion, is education an investment?

Reischauer: Yes. It is difficult to develop a consistent set of categories for a capital budgeting system.

Cohen: Clinton's statement in his State of the Union message that he would use CBO numbers evoked laughter in some parts of the audience.

Reischauer: Stated that he did not believe it was due to any impression that CBO was a partisan institution.

Cohen: The Federal Government has an indirect control of the economy through the budget process.

Reischauer: Yes, but it is not the only factor, either domestically or internationally.

## HEARING SUMMARY, MARCH 11, 1993

**Witness:** The Honorable William H. Natcher

Only about one-half of all Federal spending goes through the annual appropriations process. The other half is mandatory or entitlement spending and interest on the national debt. Of the one-half which goes through the annual appropriations process, only 35% is really discretionary spending. The other 15% are appropriated entitlements (such as unemployment compensation and veterans compensation and pensions) that we cannot easily adjust without changing the authorizing legislation.

Although discretionary spending is only 35% of the total budget, it is an extremely important part. It pays for such items as all of our national defense and our domestic investment in areas such as health, education, transportation, science, urban and rural development, crime prevention, and natural resources.

The appropriations process works well. First, the annual review through the appropriations process of discretionary programs is critical for both controlling spending and holding the Executive Branch accountable for these programs. Second, the appropriations process is the best process we have to control spending. The appropriations bills have been under budget. In the 18 years since the Budget Act was enacted in 1974, Congress has appropriated a total of \$72 billion less than requested by the Presidents. In the 18 years preceding 1974, the enacted appropriations was \$85 billion less than the Presidential requests. Since 1945, we have appropriated over \$200 billion less than requested. Last year, the total of FY1993 appropriations bills was \$9.2 billion under President Bush's request. Contrast this to mandatory spending which is on autopilot. The Congressional Budget Office states that between 1980 and 1992 appropriated discretionary spending (including defense spending) grew by only 4.8% per year, while mandatory spending increased by 7.0% per year, after you exclude savings and loan costs and net interest payments. A third successful factor is that the appropriation bills have been on time. We have not required a long-term continuing resolution since 1987. Since then, we have usually enacted all 13 annual appropriations bills very close to the beginning of the fiscal year.

There are three main reasons why the appropriations process has been effective. First, since Members of the Appropriations Committee can only serve on that committee it enables the Members to have the time it takes to become experts. Second, Members of the Committee have a wide perspective necessitated by wide competing interests in each subcommittee. In contrast, authorizing committees have more narrow focuses. The third reason is a heavy emphasis on budget totals and fiscal policy.

The dual authorizing-appropriations structure is important because it provides two different institutional perspectives that are needed. The authorizing committees provide detailed program knowledge and advocacy of programs; the appropriations



committees provide detailed program knowledge, fiscal control, and the selection of priorities between competing programs.

However, when the authorizing and appropriation functions are combined, the result is the loss of budget control to program advocacy. This is demonstrated by higher increases in spending for mandatory programs advocated by the authorizing committees that also provide funding for these programs.

This Joint Committee could improve budget control if it recommended tighter rules and procedures designed to shift more mandatory spending to the discretionary spending category so both perspectives could be used.

The appropriations process is also important because it affords every Member of Congress -- through actions on the bills, language in the reports, and colloquies on the floor -- an effective way to participate in implementing annually the policy, programs, and priorities of nearly every Federal agency.

However, there is a problem with the appropriations process. There have been too many non-germane and legislative amendments to appropriations bills-especially amendments added on the Senate floor. However, this should change since most of these amendments were the result of differing policy preferences between the authorizing committees and the Presidents. As a result, sometimes authorizing committees asked the appropriators to include these amendments in the appropriations bills.

Procedural changes to require that multi-year authorizations be enacted prior to the budget year and for a minimum of two years would be beneficial. This would provide more influence for the authorizing committees since they would have their legislation enacted prior to appropriation action. Furthermore, both the President and the appropriators would be making their decisions with the knowledge of the authorization laws. The President would be able to submit his budget based on enacted authorizations. In addition, the legislative committees could submit their views and estimates to the budget committees based on enacted legislation as opposed to proposed legislation.

It would also be beneficial to enact permanent generic funding authorizations for all authorized programs, which would deem the authorized level to be the last dollar amount enacted into law -- even if the funding authorization for a program has expired.

In conclusion, the part of the budget that works is the appropriations process.

### Questions and Answers

Dreier: Your consistently bringing up on the House floor the Labor-HHS-Education regular appropriation bill under an open rule has been refreshing. Your

chairmanship of the House Appropriations Committee is a very significant step in having open rules on the appropriations bills.

Natcher: As long as I have been a subcommittee chairman I have never asked for a rule.

Hamilton: In your testimony [see page 4] you suggest tightening rules and procedures designed to shift more mandatory spending to the discretionary spending category. I would appreciate it if you would provide the specifics in writing.

Natcher: I will.

Walker: We appreciate your not requesting a rule on floor consideration of the Labor-HHS-Education regular appropriation bill for all these years. As an authorizer, I agree with you that the dual authorization-appropriation process works well.

However, I'm concerned about the large number of policy decisions made in appropriations bills. You mentioned in your testimony that the major reason for including legislative language in appropriation bills has been due to the conflict between the Congress and the Presidents. However, I believe many were not the result of this conflict. In the 102nd Congress, 20 of the 26 appropriation bills considered had rules waiving House Rule XXI, Clause 2 [prohibiting legislation and unauthorized appropriations in regular and supplemental appropriation bills]. As a result, the authorizers have been cut out of the process.

Natcher: Over the years, many mistakes of this kind have been made by the appropriators. We have reached an agreement that no legislative language will be included in the appropriations measures. None. Furthermore, if the Senate includes legislative language in their version of the appropriations measures, we [the House Appropriations Committee] will give the authorizers 24-hours prior notice before floor consideration of such legislative language.

Walker: So we won't see rules waiving Rule XXI, clause 2?

Natcher: I hope we won't and I want to see that we don't. Some appropriators disagree with this.

Part of the problem is that authorizers request us to include legislative language or unauthorized appropriations. Recently, I received a letter from a chairman of an authorizing committee asking me to put such language in the appropriations bill since he couldn't convince the committee to report out the language he wants.

Dreier: How do you propose to deal with mandatory spending?

Natcher: If I had my way, we wouldn't pass any more bills without sunset provisions, including entitlement programs. We should review all entitlement programs.

Dreier: That proposal would alienate many constituents presently receiving entitlement benefits.

Natcher: But, I think that from now on we need to have a policy for authorization committees requiring the inclusion of sunset provisions in their bills.

Dreier: What do you think about the line item veto?

Natcher: If President Clinton was going to be President for the next 10 to 15 years, I might support the line item veto. Otherwise, I oppose the line item veto.

Spratt: When you say we need entitlements off autopilot, what do you mean?

Natcher: We need to review all entitlement programs and eliminate those that should be eliminated.

Spratt: Should we set a total entitlement and reallocate within the total similarly to the way we consider discretionary spending?

Natcher: I don't know that you can successfully do that. I do not think 3/4 of spending should be off limits. I think that this aspect of the process should be revised.

Spratt: Should appropriators control total entitlements?

Natcher: No.

Boren: I agree with you that we must stop including legislative language in appropriation bills and that the Senate is part of the problem. I also agree that the entitlement programs need ongoing scrutiny.

In the Senate, we vote on the same issue in the same Congress over and over again. We consider the same issue in the context of appropriation bills as in the context of authorizing bills. How can we stop re-fighting the same issue?

Natcher: We haven't stopped it in the House. I'm not sure we can stop it. One solution might be to have the authorizing committees include a provision in their bills that once it's decided in that bill, it's final. The problem is the authorizers keep bringing the issues up repeatedly.

Lugar: Sometimes appropriators add items in conference. How can we deal with this? One approach to dealing with this problem is a line item veto.

Natcher: I have served with nine Presidents. I've seen some Presidents pay their debts in appropriations bills. With the line item veto, some Presidents might cut certain items because it's in their personal best interests. It depends on the individual President as to whether a line item veto is appropriate.

Lugar: Do you think we should combine the authorization, appropriation, and budget functions in some way?

Natcher: Until a better system is perfected, we should keep the present system. When you get right down to it, the Budget Committees set only the totals.

Stevens: When the line item veto is discussed, I don't see proposals to cut line items in the tax bills.

If we didn't have unauthorized appropriations, the government would come to a stop. Aren't there emergencies in which we need unauthorized appropriations?

Natcher: Yes. Sometimes we need unauthorized appropriations because the authorizers can not get the authorization out of the authorization committee.

Kassebaum: I've been frustrated over the duplication of debate on many issues. Also, I think we should consider mandatory sunset provisions.

Would you agree to an authorization-appropriation two-year cycle?

Natcher: Some state governments have all sorts of trouble with two-year budget cycles. Often they have special sessions to consider legislation to interpret the budget that has already been enacted.

Kassebaum: We would probably have more supplementals with a two-year budget cycle.

Natcher: That's right.

Kassebaum: Instead of the present Budget Committees, what would you think of all the chairs and ranking members of all the committees setting the budget priorities? It would be a Leadership Committee.

Natcher: I'd keep the Budget Committees the way they are. In the House, if we had a Leadership Committee, there would be some chairs that would have more influence than I would want them to have.

Reid: In regards to the line item veto, we already have a system to deal with questionable appropriation projects, such as the Lawrence Welk home. We used a rescission. Funding for many other questionable projects also was stopped before any money was ever spent for them.

In regards to the Leadership Committee approach, the result would be that every year we would have a budget summit, with little input from many Members.

Dunn: Since a Member's attention is split into many areas, would you support a limitation on the committee assignments of each Member to only one committee, as is the case with Members on the Appropriations Committee?



Natcher: Yes.

Dunn: Should House Members be off one-week and on three-weeks of every month and work Monday through Friday during the three weeks as in the Senate? The House and Senate could be in tandem on this.

Natcher: If the House and Senate timing was the same, it would work better than the present system. Right now, we have too many quorum calls, which are a waste of time.

Obey: I agree with you that the legislative amendments in appropriations bills of recent years have been the result of a gridlock between the authorizing committees and the Presidents. Also, I think it's a good idea to have a two-year authorization to stretch the time between the authorization and appropriations processes. In regards to the line item veto, at most Congress has only changed the Presidents' budget by 3%. A line item veto should also apply to tax expenditures and entitlements.

Natcher: I agree with you.

Obey: In regards to the one-week off/three-weeks on proposal, we almost have that now. In January, we had one week off, in February we had one week off, in April we'll have more than one week, and in May we'll have more than one week. We need to extend work during the on weeks to five days, as opposed to Tuesday through Thursday.

Natcher: We need to stop the authorizing committees from spending 13 to 14 days on the House floor for one bill with hundreds of amendments, such as the defense authorization bill. Usually, an appropriation bill takes one day on the floor and often less.

Obey: I think it would be helpful if the authorizing committees of the House and Senate were parallel, as is the case with subcommittees of the House and Senate Appropriations Committees.

Dreier: Since a Member's attention is fractured because of too many committee and subcommittee assignments, would it be a good idea to assign each Member to only one committee?

Natcher: I think you should look at this idea. I think it's a good idea to cut back on assignments so a Member can spend time on an important committee.

Reid: I think requiring a sunset provision in every bill is a good idea. I introduced a sunset bill.

## HEARING SUMMARY, MARCH 16, 1993

Three Witnesses: Senator Nancy Landon Kassebaum, Representative George E. Brown, Jr. and Senator William V. Roth.

Senator Reid opened the hearing and introduced Senator Kassebaum.

Senator Nancy Landon Kassebaum

Discussed her proposed measure, S. Res. 13, which would consolidate the existing three-step spending process into two steps. The measure calls for a merger of the authorization and appropriations processes into one step for allocating funds within overall budget limits. The intent of this legislation is not to do away with the Appropriations Committee. Both the Appropriations Committee and the authorizing committees have served their purposes. There is a need, however, for restructuring in order to achieve efficiency and accountability. The main purpose is to improve the process by eliminating its redundancy.

Remarked that a Leadership Committee, comprising the chairs and ranking members of all other committees would replace the Budget Committee, and would set overall spending priorities and hand down binding budget limits. The chairs and ranking members would then enforce the budget limits through their individual committees. They would judge both the merit and the priority of programs -- functions now done, during both the appropriations and authorization processes.

This legislation offers a beginning for controlling spending. A further step may be to consider Chairman Natcher's idea to sunset or regularly review entitlement programs. Thought should be given to making entitlements part of the appropriation process. Social Security, however, would not be subject to the process.

Senator Bryd spoke of the importance of individual Senators shouldering responsibility for making this institution function properly. In addition, we must be responsive to our constituents and to this nation, as well as be accountable. In order to accomplish these goals, some changes must be made.

Accountability is lost in a confusing, redundant spending process and a maze of overlapping committee jurisdictions. When legislation fails its purpose, it is hard to see where the blame lies. In the eyes of the people, however, it lies with us all. This legislation creates clearer responsibility for decisions to spend or to cut taxes. It impedes the temptation to pass the buck.

The Appropriations Committee was created in order to promote fiscal strength. It has done so and is not the culprit of this legislation. The Appropriations Committee was added as a second layer, a "gatekeeper" against runaway spending. The subsequent creation of the Budget Committee, however, created a third layer

after which fiscal restraint began to decrease through the fault of an inefficient three-tiered system. The system should be returned to two steps.

Finally, the Joint Committee must not fear to be bold in regard to this legislation. Tinkering will squander our mandate for little benefit. The most worthwhile reforms will seek to improve the Senate's basic work of setting public priorities and allocating public money to achieve them. By making ourselves more accountable in that process, many related problems will resolve themselves.

### Questions and Answers

Dreier: Do you believe that this kind of reform is politically palpable?

Kassebaum: There will always be concern over change because it is easier to stay with the familiar. The public, however, wants greater accountability. This plan can lead to that.

Dreier: A professor used to say that  $S=2P$ , a solution equals two problems. Have you thought about possible problems?

Kassebaum: The melding of the Appropriations and authorization committees will be the most difficult from a political viewpoint. Seniority falls out well when a meld is done. There will be some difficulties, but a meld can occur and with time the proposed plan will work. In addition, the plan was drawn up to be compatible with the House even if the House does not adopt it.

Reid: A major problem with this proposal is that it centralizes power to the extent that we may as well do away with the legislative branch. Former Senator Mansfield has said that one of the biggest mistakes made was taking power away from chairs in the Senate because now no one has power.

Discussed the differences between the current system and the proposal. A similar procedure was in effect some years ago, and it caused spending and appropriations to rise.

The Senate and House Appropriations Committees both have 13 subcommittees with equal jurisdictions so that conferences work. Changing the system will disrupt this.

An article by David Stockman summarizes our problem. We are trying to correct problems without recognizing basic faults. We do not have enough money to run government.

Kassebaum: The proposal will strengthen both chairs and their individual committees.

Reid: What incentive is there to save money?

Kassebaum: The 602B allocation can still remain in effect. Budget guidelines would still apply to the new system.

Reid: Under your proposal any savings are lost, whereas now savings stay in appropriations.

Kassebaum: Savings can go to reduce the deficit.

Reid: So a lump sum would go to the Leadership Committee and then the chairs would fight over it?

Kassebaum: The Leadership Committee is the same as the Budget Committee except that its membership is comprised of the chairs and ranking members of other committees.

Cohen: Every reform carries the seed of its own abuse. In the 1970's, overspending caused President Nixon to impound funds from Congress. The current budget process grew out of this situation as Congress attempted to exercise more control over spending. Today, however, the process has become too cumbersome. Some of the steps need to be eliminated. This proposal is a step forward in trying to eliminate one layer. It also strives to concentrate power in the hands of a few key people.

Who is the Leadership Committee? Is it the chairs and ranking members from each policy and program committee plus five to keep the majority balance?

Kassebaum: Yes.

Cohen: Where do the extra five come from?

Kassebaum: The party leadership appoints them.

Cohen: The problem with the budget process is the duplication that exists. The process needs to be simplified.

Allard: Have you thought about creating more joint committees in order to reduce the number of committees? For example, we could have joint ethics, intelligence, and administrative committees.

Kassebaum: That is an interesting concept. There have been some ideas about changing jurisdictions. Intelligence, for instance, could go to the defense committee.

Allard: What about a joint budget committee like some state legislatures have? Then we could have more of a legislative budget rather than a presidential budget.

Kassebaum: The large size of such a committee may cause problems. Where it is feasible, however, the more joint committees, the better. With joint



committees, repeat hearings can be avoided and priorities could be set together. As a general rule, coordination and consolidation should be accomplished wherever possible.

Allard: A more straightforward process would also create accountability.

Lugar: Discussed the proposal, outlining what the Leadership Committee would be. It would deal with discretionary spending, but can it also look at entitlements?

Kassebaum: That is not provided for in the proposed legislation, but it is a provision that should be included. The Leadership Committee could have the responsibility of reviewing entitlement programs.

Lugar: The Leadership Committee should have all responsibility for money and the power to change entitlements or other programs if there is not enough money. Mandates should be given to the individual committees on funding programs and entitlements. Any money that is not spent should then go to deficit reduction. After the Leadership Committee authorizes and appropriates, the individual committees can try to further cut and have money left over. This will work better than having the Agriculture Committee work on a program and have it subsequently rewritten by the Appropriations Committee.

It will be easier not to deal with two committees. There will be political difficulties with changing the Appropriations Committee; Members will have to decide if they really want to deal with the Appropriations Committee. Another problem will occur when Members begin to calculate where they fit under the new proposal. It is, however, time for a more straightforward budget process.

Kassebaum: It is also easier to have good oversight when accountability is in one committee.

Emerson: The Committee should keep a focus on this proposal because the ideas in it deserve serious exploration. The public is intent enough on reform that they will forgive their Representatives and Senators for not being chairs or ranking members. It's not where we sit, it's what we do that matters to the public.

Discussed budget reform of the 1970's and the subsequent subcommittee proliferation. We need to look at how we evolved to where we are now. Our problems stem from what went on in the 1970's.

Spratt: Does the Leadership Committee replace the Budget Committee? How do entitlements fit in?

Kassebaum: The Leadership Committee will take over the duties of the Budget Committee. Entitlements are not included in the legislation, but their incorporation is an excellent idea for a significant expansion to the proposal.

Spratt: Will the Leadership Committee be given power over tax expenditures?

Kassebaum: Social Security will be kept separate. New entitlement programs out of appropriations and authorizations, however, do not receive oversight. A two tier budget process would allow for greater oversight, where the second year is designated for that.

Holmes Norton: This proposal deserves careful consideration. You said that the problem is not the Budget Committee or the Appropriations Committee, but that the problem is the system because of the "third level devil." Senator Bryd, however, has said that when authorization and appropriation powers were together, spending got out of control. Does your proposal have limits to avoid this problem?

Kassebaum: The problem will be avoided only through discipline. It is a question of whether we have the political will to make it work. The Budget Committee was created to set spending limits and impose discipline. The extra layer it produced, however, has made the system too cumbersome. The system needs to be simplified to see where accountability is. This proposal is not reinventing the wheel, but providing for a more organized means of moving the budget process forward.

Holmes Norton: It is difficult to see this plan as anything but an attack on the Appropriations Committee.

Kassebaum: The appropriations process is dominant because it is the judge and the jury. The Appropriations Committee does so much because the authorizations are not completed when it makes decisions. The focus of the proposed legislation is more on authorizations. It should improve the delivery process.

Walker: There is an ongoing struggle to do something similar in the House. The three-tier system does not work. The disciplinary tool has been the Appropriations Committee. There is a macroeconomic framework for both Appropriations and authorizing committees to work within, but it has only affected Appropriations. Authorizing panels would come up with huge numbers and then the Appropriations Committee would have to fit the numbers into budget realities. More Members need to be involved in the process so they can see how spending and money fit together in the macroeconomic framework.

Can your proposal work for the House?

Kassebaum: Yes, the proposal was designed to allow the House and Senate to confer on spending issues, whether or not the House accepts it.

Walker: The proposal is a way to get around some of the problems in the budget process.

Boren: Can parts of this proposal be incorporated separately? For example, could the Budget Committee be changed to the Leadership Committee even if the rest of the proposal is not implemented?

Kassebaum: Yes, that can be done, but something will be lost.

Boren: Are you opposed to a reduction of subcommittees?

Kassebaum: Not at all.

Boren: What about the program committees? In areas of joint concern, especially in non-legislative ones, can we create joint committees?

Kassebaum: That is a valid idea. Under the proposal, though, program committees have legislative authority.

Dreier: What about merging program committees into policy committees?

Kassebaum: That idea has merit and should be considered. Intelligence is one Committee that could be merged that way.

Boren: Should we try to enforce the rule that the Appropriations Committee can not appropriate more than the authorization recommends, and can not appropriate anything that has not been authorized? Would this produce enough of a budgetary constraint that it would solve the problems?

Kassebaum: If we stay with the old rule, we still have a three step process.

Reid: The proposed Leadership Committee will have 39 members. Will it still have to reconcile with the Finance Committee?

Kassebaum: Within the proposal, the Finance Committee is called Economics and it is accounted for as a policy committee.

Reid: The system in place provided an incentive to save money. The proposed plan, however, takes this incentive away. We must proceed carefully before a decision on this issue is made.

Walker: A system like this has never been tried before as we have never had a macroeconomic framework before.

Reid: The proposal is comparable to a system that has been tried before.

Boren: This is a thoughtful and provocative proposal that will be studied in detail.

Representative George E. Brown, Jr.

The motivation for being here today is the frustration of the appropriations process on committee chairs. These chairs have been talking about ways to fix things and have developed some modest proposals. These suggestions are far less-reaching and less-threatening to the status quo than other proposals.

As Chair of the Committee on Science, Space, and Technology, I have encountered difficulty in enacting meaningful legislation to deal with policy issues. The main impediment to this is usually the internal rules of the institution, particularly the rules governing the authorization and appropriation processes.

The current three-tiered process involves the Budget Committee, authorizing committees, and the Appropriations Committee, where functions have become overlapping and intertwined. Some have argued that the appropriation and authorization processes should be combined into one stage. While this suggestion should be considered, a backup plan to bring the functions into a better balance should also receive consideration.

Conflicts between authorization and Appropriations Committees are usually due to one of two factors: the inclusion of legislation in appropriation bills or unauthorized appropriations.

It has been argued that only about 6% of appropriations are unauthorized, and that these are the result of unresolvable policy disputes. This figure does not take into account situations when the authorization bills are passed too late or in too diluted a form to have any substantial effect on policy. It misses cases in which appropriations bills either exceed authorized levels or earmark funds for unauthorized projects. Examples of how the process has shut the Science Committee out of a meaningful role in policy formation include the failure to pass R&D legislation for an 11 year interval, and problems with NASA, NSF, and Super Collider legislation all dying in the Senate, where the authorizing committee chair also serves on the Appropriations Committee.

There are three proposals to combat these problems. First, all Members would be restricted from serving on both authorizing committees and the Appropriations Committee. Members who serve on both tend to legislate through appropriations bills since these receive more protection from debate, amendments, and perfecting. Secondly, waivers for unauthorized appropriations should be allowed only in extraordinary circumstances and with the concurrence of the authorizing committee. Thirdly, the enactment of multi-year authorization legislation prior to enactment of appropriations legislation should be required.

If the House can not find the time and will to deal with authorization bills, then the authorization and appropriation processes should be compressed into a single step and I will strongly support such action.



## Questions and Answers

Dreier: You said that the most important proposal was to change the Senate practice of serving on both authorization committees and the Appropriations Committee. How do you feel about limiting the number of authorizing committees and the number of committees on which Members serve?

Brown: It is conceivable that we may want to reduce the number of authorizing committees. This would then also limit the number of committees upon which Members serve.

Dreier: This conflict has grown with the expansion of committees?

Brown: It has created problems.

Spratt: Would an easy solution be to cut out the Appropriations Committee?

Brown: I am moving rather quickly in that direction. There are times when it is easier to make drastic changes over incremental ones.

Spratt: Would there be problems with not having an Appropriations Committee?

Brown: We would not be "not having" one. We would just be combining it with authorizations, which is being done anyway. There are some problems which just have to be worked out with time, but in the long run, there will be greater efficiency.

Spratt: Are authorization committees authorizing more than the budget permits?

Brown: That situation occurs when authorization committees try to outguess the Appropriations Committee and add on more money so that when cuts are made there will still be enough appropriated for a program.

Walker: You mentioned the Super Collider and the failure of the Senate to authorize it. The authorizing committee was trying to exercise control but it was not able to. Would you comment on this issue?

Brown: There may be a point where we will regret not establishing guidelines for the Super Collider. Congress must be able to express its will on matters of controversy.

Walker: Have you given any thought to how to deal with eliminating the Appropriations Committee in the House? Where would the Members serving on the Committee go?

Brown: They would be integrated into the new system by seniority. With the change, role and status will be altered. This will not be a serious problem as long as the change is rational and logical.

Walker: Should we restructure the committee system in the House and rework jurisdictions?

Brown: That is absolutely essential. The history of Congress shows its ability to adapt. Without change and a re-examining process, we will be a dead body.

Boren: In the House, is there a rule prohibiting Members from serving on both Appropriations and an authorizing committee?

Brown: Yes.

Boren: There are 299 committees and subcommittees in Congress. Is that too many? What is a good number to have?

Brown: That is definitely too many. The House has started reducing the number of panels since too many assignments decreases the ability of Members to function efficiently.

Boren: Can we be successful in enforcing the rules of not appropriating without a prior authorization and of sticking to the levels authorized?

Brown: That is eminently feasible.

#### Senator William V. Roth

Asserted that a two year budget cycle can help to insure a more effective use of taxpayers' dollars and also restore public confidence in the policy making process. There are a few things that are important to remember. First, it is important that we do not anticipate quick, easy fixes as many of our problems stem from policy disagreement. Secondly, the size of the national debt has made it difficult to think about the budget other than in terms of controlling this debt. It must be realized, however, that good budget practice is essential for the delivery of good programs.

The Biennial Budget Act is designed to put the budget on a two year basis, creating a two year budget resolution and appropriations process. The first session of Congress would be devoted to the budget resolution and appropriations while the second session would deal with oversight and multi-year authorizations.

This plan will bring a more deliberate and careful consideration to the budget process, promoting credibility and fairness. In addition, more efficient program planning and administration can be realized.

A two year budget cycle will also reduce the repetitive nature of the current system. By making decisions once every two years instead of twice, we reduce the burden. Furthermore, we avoid debating an issue that might have been decided in an earlier Congress.

The two year cycle may also help reduce the deficit by providing authorizing committees with a stronger ability to review entitlements and other government functions. Retention of the budget enforcement mechanisms will ensure that Congress does not spend more the second year through supplementals. The supplementals that do occur will be dealt with within the parameters of overall spending guidelines.

There are many efficiencies that can be realized when a multi-year approach is set forth in law. The use of spending caps in the 1990 Budget Enforcement Act made for a smoother, more efficient budget process during the second session. Similarly, budget summits which set out spending and tax guidelines for multi-year periods will help Congress to move briskly on the budget.

The two year budget is a tool that can help to make the budget process more efficient and manageable.

### Questions and Answers

Spratt: There are two schools of thought on the two year budget process. One is that it will end redundancy. The other is that supplementals will cause the second year to be the same as the first. Chairman Natcher has said that in states which use the two year process, the second school of thought is true.

Roth: That is unduly pessimistic. The 1987 and 1990 agreements have shown that it can work. The proposal is simple. The first year is used for the budget resolution and appropriations while the second is used for in-depth review of the programs. We need to establish program goals and use the second year to see if they are met. In addition, programs are run better when agencies know how much money they are getting. The two year system helps the recipients.

Spratt: Can we make this change without budgeting entitlements?

Roth: The proposal will still work, but it is only part of the reform. Entitlements will still need to be looked at.

Walker: This is an interesting reform idea. It would appear that with this program, someone proposing a new program would have to wait a long time to see funds because a proposal during the second year of the cycle could not receive funds until the first year of the next cycle.

Roth: New programs take a year or two to be adopted anyway. When there is a special need, there can be some flexibility in the program. We need to take a longer look at what we are doing to ensure better planning.

Walker: A new President, however, would not be able to do a "100 days" program. Any new programs would not begin until almost the third year of the term.

Roth: Some of us do not think that that would be so bad.

Walker: It would create the impression that new Presidents are not doing what they were sent to Washington to do.

How do we prevent supplementals in the second year from becoming omnibus bills filled with mischief?

Roth: Self-discipline. There is a mood in Congress for real reform. What is important is moving to the two year cycle. The details can be worked out later.

Boren: One of the problems in the process is that the same issues are taken up at each stage. How do we keep those who lost in the first year from trying again in the second?

Roth: It is reasonable to find ways to control for this problem.

Boren: Without controls, supplementals will redo everything from the first year, as is the case in state legislatures.

What should we do to improve oversight?

Roth: Set performance goals for all programs. Have Congress adopt them and then implement them with the program. In the second year, look at what success there has been reaching the goals. Freeing up the second year will give committees time to do this in depth.

Boren: There has been a lot of interest in a multi-year budget process.

Roth: The time is here, the time is right for substantial reform.



## HEARING SUMMARY, MARCH 18, 1993

**Seven Witnesses:** Representative Charles W. Stenholm, Senator Barbara A. Mikulski, Representative William F. Clinger, Jr., Representative Robert E. Wise, Jr., Representative Jim Kolbe, Representative Christopher Cox, Representative Bill Orton

Representative Charles W. Stenholm

There are two reasons budget reform is needed. First, there are process reasons: the process is confusing and disjointed. Much of the complexity is inevitable, but we should do as much as possible to make the process more efficient and understandable.

Second, there is a substantive effect: deficit reduction. The best place to start is a balanced budget amendment. Since nothing else has worked so far, a constitutional solution beyond procedural tinkering is required. Remarked that last year his balanced budget amendment came within nine votes of the two-thirds necessary, and that he hopes that the 103rd Congress will be able to send the proposal to the states for ratification.

A constitutional amendment is not a panacea. It's a first step which must be followed by hard choices and other procedures such as:

1) Balance Budget Enforcement: Stated that he endorses Representative Penny's and Representative Orton's proposals. Representative Penny's proposal would establish deficit reduction targets; a board of estimates; and enforcement mechanisms, including a potential sequestration.

2) Sunset Legislation: All federal programs would be sunsetted.

3) Modified Line-Item Veto: The President should be allowed to return a list of proposed rescissions within three days of signing an appropriations bill, and Congress should be required to vote on a bill approving the rescissions within ten legislative days. If a simple majority of Congress voted against a presidential rescission, the funds would be released.

4) Truth in Legislating: Committees should be required to include in their reports the identity, sponsor, and cost of each provision which benefits 10 or fewer beneficiaries.

5) Baseline Reform: The current services baseline should be eliminated.

6) Continuing Resolution Reform: Continuing resolutions should be frozen at the current fiscal year's spending levels and the inclusion of legislative language in the continuing resolutions should be limited.

7) Limitation of Waiving Budget Rules: Waivers should be approved by a 3/5 vote of each chamber and on each waiver there should be a separate vote. More than 600 waivers have been granted since the enactment of the 1974 Budget Act.

8) Prohibit Unfunded Mandates: Stated that he endorses Representative Condit's measure, H.R. 140, requiring the Federal Government to fully fund any mandates placed on state and local governments.

Asserted that budget process reforms won't solve all budget problems. But we need to increase the credibility and accountability of the budget process.

### Questions and Answers

Emerson: A balanced budget amendment is needed to compel Congress to make hard choices. Can it realistically be achieved?

Stenholm: I think so or I wouldn't keep trying.

Lugar: How did we get to the point where spending begins with a cost of living increase?

Stenholm: It seems to be an elusive entity. No one claims paternal interest.

Lugar: I like Senator Kassebaum's idea of the budget group taking on entitlements. Do you have an opinion?

Stenholm: I am not familiar with Senator Kassebaum's bill but like how you've described it. Everything should be frozen, then decisions should be made on what spending should be increased.

Allard: Does the President agree with your modified line-item veto proposal?

Stenholm: My understanding is that his idea is similar. I have never supported the traditional line-item veto, due to concern about the balance of power question. However, if the modified version doesn't work, I may support the traditional line-item proposal.

Cohen: What about the Perot factor?

Stenholm: People have become more aware of the problems, and of the deficit, because of Perot. That has encouraged the President and Congress to start addressing the entitlement question. This is encouraging. Budget reform has to be bi-partisan and prospects are good that it will be.

Cohen: Senator Reid has brought up the late 1800's and early 1900's when there were no appropriators and the authorizers spent a lot. Do you think authorizers are more extravagant than appropriators, or do authorizers have to set their budgets high because the appropriators will cut them?

Stenholm: Appropriators are not more or less spendthrift than authorizers. It's time to decide if we need all three levels. Also, there should be term limits on full and subcommittee chairs.

Dreier: Agreed that there should be limits on waivers of budget rules. What's the chance of doing that?

Stenholm: The people are ready for change and when they're ready, Members will follow.

Senator Barbara A. Mikulski

Congress needs to streamline the authorization process for FEMA, EPA, and the National Science Foundation.

I oppose combining authorizations and appropriations but the same goals could be accomplished by selectively streamlining the authorization committee process. The principle should be one authorization committee for each major agency and one appropriations subcommittee. Otherwise, oversight is scattered and there is a potential for big problems.

For example, FEMA now reports to 10 authorization committees in the House and Senate and 16 authorization subcommittees. EPA reports to 34 authorization committees and 56 authorization subcommittees. Each committee believes its initiative should be the agency's top priority and no committee looks at how the parts of each agency fit together. Also, my Appropriations subcommittee becomes an authorization committee by proxy because it is the only "one-stop shop" for FEMA and EPA.

The National Science Foundation has two authorization committees in the Senate but one in the House so it is hard for the two chambers to work together.

FEMA doesn't work well and needs to be overhauled, but it would be hard to change it unless Congress changes too. The National Academy of Public Administration has agreed that having so many authorizing committees share jurisdiction over FEMA is a problem.

There is a similar problem with the EPA. For example, we have learned about mismanagement at EPA after a series of GAO and IG reports, because no one authorization committee was looking at how well the agency is run.

Both FEMA and EPA need a single authorization committee, and the subcommittee alignment should balance the demands on either agency's people and resources.

The Appropriations Committees will work with the Joint Committee in this effort.

### Questions and Answers

Dreier: In the Senate, are there authorizers who are also appropriators?

Mikulski: The Joint Committee should look at the number of subcommittees and committees Members serve on and maybe reduce the number of subcommittees.

Appropriators include authorizing language in their bills because sometimes authorizers can't get bills passed due to gridlock. With the end of gridlock, there will be less entrepreneurial amendments.

Emerson: Is the problem of appropriators doing the job of authorizers as big as it's portrayed?

Mikulski: Yes. Some of the same people who are critical of the practice tiptoe around to see if we can't take care of them.

Reid: How do you enforce having one authorizer and one appropriator for an agency?

Mikulski: First, limit the number of committees. Second, establish committees and subcommittees that cluster around a specific topic, such as veterans. FEMA should be a government operations or public works issue, not a DOD one. One of those two might not be the best place for it, but at least it would be a place.

Reid: Appropriators have such wide-ranging jurisdiction that they don't have the opportunity to know every area in depth, and they can avoid the "iron triangle" of the special interest group, the agency, and the subcommittee. Asserted that this is why eliminating appropriators is a bad idea.

Mikulski: Observed that authorizers should do more oversight. Also, remarked that she likes the idea of a two-year budget cycle.

Holmes Norton: Why are you opposed to Senator Kassebaum's proposal?

Mikulski: Where would you put the appropriations of FEMA, and of EPA? Right now we are one-stop-shopping for those two agencies.

Boren: Would it be useful to talk to the agencies and determine where they would report?

Mikulski: Absolutely. All 13 subcommittees probably have problems.

Boren: Do you favor a dramatic reduction of the number of committees and subcommittees?

Mikulski: The world has changed since 1947: there is a larger and more diverse population, and a more activist government. We need to decide what a 21st Century Congress should look like.

Boren: How many committees and subcommittees should a Senator serve on?

Mikulski: Maybe 2 committees and 8 subcommittees.



Boren: What about strict enforcement of the rule that there be no authorizations in appropriations bills?

Mikulski: The issue of a timetable for authorization bills is crucial.

Boren: What should be the top priorities for committee realignment?

Mikulski: A rational structure; a reduction in numbers; and a change in the culture so Members look at what's in the best national interest, instead of trying to bag trophies, such as funding for the district.

Boren: What about Senator Kassebaum's proposal to have committee chairs comprise a Leadership Committee to perform both authorization and appropriation functions?

Mikulski: It would be the biggest power struggle between the chieftains. Asserted that she likes the current Budget Committee where Members rotate on and off.

Holmes Norton: Do you favor replacing the Ethics Committee with an outside panel?

Mikulski: Stated that she would reserve comment, because there is a task force looking into changing the Ethics Committee. The task force will present its recommendations by July 1.

#### Panel Presentation by Representative William F. Clinger, Jr. and Representative Robert E. Wise, Jr.

##### Representative William F. Clinger, Jr.

Most Members think that the budget process is not rational and it is impossible to explain to constituents. I am frustrated by the process of making budget decisions and by the lack of information at our disposal. There is no distinction regarding the substance of cuts, whether they're reductions in investment spending such as new highways, or cuts in the operational expenses of an agency.

There's also a lack of information about spending proposals -- whether the spending is to invest in assets, consumables, operating expenses, or human enterprise programs.

Capital budgeting is a planning tool used by business leaders and many state and local officials to help prioritize spending for the future. A capital budget would improve the budget as a reporting, control, accounting, priority-setting, and fiscal-policy tool.

Capital budgeting divides spending into two categories: 1) spending on operating expenses; and 2) spending on assets, such as building a highway which converts cash into another asset with real value.

Remarked that he has introduced legislation to require the Administration to use capital budgeting in its budget proposal to Congress, and legislation to create a commission to study capital budgeting and make recommendations about its implementation.

Representative Robert E. Wise, Jr.

Many of Congress's budget problems have as much to do with the process as with decisions made or not made by Congress.

The greatest problem to me is that the budget makes no distinction between money spent on investments and money spent for consumption. All borrowing is not equal. Borrowing for physical infrastructure can be justified if it pays for itself in the long-run by increasing the nation's wealth and capacity for future economic expansion.

Stated that he has reintroduced legislation to divide the federal unified budget into an operating budget and a capital budget. The operating budget must be balanced but the Federal Government can borrow money for infrastructure investments that increase the national wealth and contribute to economic growth. The money borrowed would be paid back over the life of the projects.

Many other industrialized countries have a capital budget, and businesses and most state and local governments have investment budgets that separate long-term capital investments from year-to-year operating costs. OMB Director Richard Darman, the GAO, and the Progressive Policy Institute have endorsed distinguishing between investment and consumption spending.

A capital budget forces policy makers to decide if each investment is worth borrowing money for. The public benefits from knowing that the government's current costs are being paid for and that any borrowing is for future investments. It also provides long-term investment planning.

Representative Jim Kolbe

Expressed concern about the pattern of disregard for spending limits and deadlines put in place by the 1974 Congressional Budget Act. The guidelines, which set conditions for the adoption of the budget resolution, set deadlines for congressional action on spending and revenue legislation, and ensure that action is consistent with levels set in the budget resolution, are enforced through points of order which can be raised by Members if the requirements are not met.

The House circumvents the enforcement requirements through waivers from the Rules Committee. If a simple majority vote approves a rule that includes this waiver, there is no recourse to stop violations of the Budget Act.

He proposed making it more difficult to get a waiver by requiring a supermajority or 3/5 vote for waiver approval.

The House should place procedural restraints on itself, similar to those of the Senate: since 1985, the Senate has required a supermajority, a 3/5 vote on rules that waive Congressional Budget Act points of order.

There has been an alarming trend in the increased use of waivers. Sadly, a supermajority Budget Act waiver requirement may be obsolete because the Rules Committee has resorted to blanket waivers. Blanket waivers may need to be looked at when the Joint Committee examines rules reforms.

### Questions and Answers

Boren: In the Senate, the number of points of order raised and granted regarding the budget has decreased since 1986.

Kolbe: Stated that he was not talking about using a straightjacket; there are times when a waiver is needed. There appears to be self enforcement of the Budget Act requirements in the Senate.

Boren: Would capital budgeting make it easier to control the deficit and to cut out pork?

Clinger: It would help with both. Congress has had a feast or famine approach to spending on infrastructure. If there was a dedicated and predictable flow of money, if there were established criteria for needs and standards, it would discourage unwarranted projects.

Wise: I agree. The Comptroller General would have to review and report on projects. A project is hard to justify if it doesn't offer more reward in the long run than it costs.

Holmes Norton: How would capital budgeting fit with the appropriations and authorizations processes?

Clinger: Proposed putting the capital budgeting component under the unified budget. It's a planning tool as much as a budgeting tool.

Holmes Norton: Wouldn't the deficit be distorted?

Clinger: The deficit is distorted now. It would be less distorted with capital budgeting because you would see the depreciation over a number of years.

Wise: A dollar spent on consumption is now viewed the same as a dollar of highway spending.

Holmes Norton: What are the arguments against your proposal and what is your response?

Clinger: OMB thinks capital budgeting limits their flexibility to move things from function to function. It has been a problem of definition: how do you define what is capital spending and what is not.

Wise: Our definition would be narrow and there would be a lot of review by the Comptroller General to certify if spending is truly returning capital.

Holmes Norton: How typical is New York's bad experience with capital budgeting? Do other states use it?

Wise: There's a lot of money in the deficit that shouldn't be there.

Holmes Norton: There are billions of dollars that should not be considered part of the deficit.

#### Representative Christopher Cox

Congress habitually violates the deadlines and ceilings it established to regulate the way it prepares the annual federal budget. Congress has abdicated control of most government spending. Every year Congress writes a blank check for entitlements it declares uncontrollable.

The failure to balance the budget is the result of a poorly designed congressional budget process. The process encourages violation of the laws designed to force rational choices among competing priorities, and it virtually guarantees wasteful spending and financial chaos.

Part of the problem is that few people understand how the budget process works. The Budget Committees are powerless to enforce the law. President Clinton has already violated the law by failing to submit his budget by the February 1 deadline.

Noted that as a co-chair of the Task Force on Budget Process Reform, he has developed the Budget Process Reform Act which has 120 House and Senate cosponsors. The act is based on the premise that an effective budget would:

- \* be as simple as possible;
- \* encourage early consultation and cooperation between Congress and the President;
- \* produce decisions on overall budget levels early in the budgeting year;



- \* not give either the President or Congress an advantage in dealing with the other or in establishing spending priorities;
- \* tie each individual spending decision to an overall, binding budget total;
- \* require explicit decisions on spending levels for all federal programs;
- \* prevent threatened shut-downs of the government;
- \* not raise difficult questions of constitutionality;
- \* contain a bias in favor of a spending restraint that could be overcome only if both the President and the Congress wish to do so.

The key features of the Budget Process Reform Act are as follows:

1) Budget First, Spending Second: Require Congress to enact a legally binding budget (a joint, not concurrent, resolution) by April 15 of each year. Until the budget is signed into law, no authorization or appropriations bill could come up on either the House or the Senate floor, or before any committee. The budget would set ceilings on all federal spending (except Social Security and the interest on the debt) for the coming fiscal year.

2) One-Page Budget: The budget must fit on a single page which sets specified ceilings on government spending within the 19 summary categories.

3) Two-Thirds Requirement: Congress could enact spending legislation in excess of the budget ceilings only by a supermajority vote.

4) No More Blank Checks: Require Congress to determine the desired level of spending for each federal program except Social Security and interest on the debt. Ceilings for spending on entitlement programs would be included in the one-page budget.

5) Line-Item Reduction: Give the President enhanced rescission authority, to rescind the over-budget portion of any spending unless Congress were to enact legislation expressly disapproving the specific rescission. The President could also cut back any spending in excess of the previous year's levels if Congress failed to adopt a budget. The Congressional Budget Office, not OMB, would be the scorekeeper for determining whether particular authorization and appropriations measures are consistent with the budget ceilings.

6) No More Budget Act Waivers.

7) Avoiding Government Shutdowns: If Congress fails to adopt a budget by October 1, the previous year's funding level would automatically be reappropriated for the upcoming fiscal year. The automatic continuing resolution would apply to all spending except for Social Security and interest on the debt.

### Representative Bill Orton

The current budget process is a major factor in Congress's failure to cut the deficit. Noted his introduction of H.R. 1138, the Comprehensive Budget Process Reform Act of 1993. The act would:

- \* require the President to submit a balanced budget;
- \* require both congressional Budget Committees to report out a concurrent budget resolution providing for a balanced budget;

- \* require Congress to enact a concurrent budget resolution providing for a balanced budget;
- \* require OMB to provide Congress by September 1 with a forecast of the projected deficit for the fiscal year expiring October 1;
- \* require OMB to provide Congress by October 15 with a statement of the actual deficit of the prior fiscal year. Calculation of the actual deficit does not include spending cuts or tax increases under the following two requirements since such changes are a repayment of a prior year's deficit.

In addition, if actual outlays exceed actual receipts, Congress must provide for repayment of the deficit through reconciliation legislation or Congress can waive the requirement of repayment through a majority vote (recorded) of both Houses. The waiver is subject to a presidential veto with a 2/3 override.

If Congress adjourns for the session without providing for repayment of the deficit or waiving this requirement, there is an automatic across-the-board sequester of funds in an amount equal to the deficit. Interest on the debt and Social Security payments are excluded from the sequestration.

The rest of the act deals with budget process reforms including a biennial budget, unified operating and capital budget, sunset authority, expedited rescission authority, performance-based budgeting, and incremental-based budgeting.

Produced observations on other areas of reform. Expressed frustration with the frenzied pace of activity in the House, which is not conducive to oversight, deliberation, and good decision-making. To address this issue, proposed a change involving spending the first two weeks of the month on committee hearings and markups; the third week on floor business, debates, and votes (with 5 minute votes); and the fourth week on district work.

Also, proposed dividing up special order time so each Member would get three hours a year to speak.

### Questions and Answers

Boren: Would your changes be phased in?

Orton: Yes, by the year 2000.

Boren: What about supplemental appropriations?

Orton: All appropriations must be in balance. Supplementals are not a problem unless the budget is out of balance; then you'd have to identify additional cuts or tax increases or request a waiver which must be voted on and is subject to a veto.

Boren: An automatic continuing resolution has a lot of merit. Now, the President doesn't have a real choice to veto or not when the alternative is shutting down the government.

Cox: Agreed, and remarked that it's blackmail.

Orton: Expressed concern with a continuing resolution because the world changes and the biggest fight is always against the status quo. Stated that he is afraid that those with vested interest in current spending will work to block passage of a budget agreement.

Cox: The interest of the status quo is now served by baseline budgeting. The continuing resolution doesn't apply to the baseline but to real dollars.

Boren: Why exempt Social Security? Is it just too politically tough to pass it.

Cox: It gives meaning to the Social Security trust fund. The problem is that we're treating the trust fund as a piggy bank, masking the true size of the deficit.

Orton: A budgetary cap on entitlements doesn't work because what happens when the cap is reached before the fiscal year ends? Do people not get their checks? The solution is statutory reform of the entitlement program.

Boren: Stated that he likes biennial budgeting and sunset laws. Why is the line-item veto part of your proposal? Would it give too much power to the President?

Orton: Stated that although we couldn't get a line-item veto passed, we've got to bring the President more into the process and make the chairs accountable. Expressed support for enhanced rescission. We should be made to vote; the problem now is that we don't have to vote on specific items.

Cox: There is a serious problem with Congress bundling more legislation into one measure. Checks and balances work only when each body has the chance to exercise its powers. With line-item reduction, the President can cut back only the portion of the budget that's over the limit Congress set for itself.

## HEARING SUMMARY, MARCH 23, 1993

**Five witnesses:** Representative Anthony Beilenson, Stephen Bell, Louis Fisher, William Pound, and Joseph White.

Representative Spratt opened the hearing, and introduced Representative Beilenson.

Representative Anthony Beilenson

Remarked that his views on the budget process have been shaped by experiences on the House Rules and House Budget Committees. The current budget process properly allows for informed decision-making, enforcement, and flexibility. Reform measures such as Gramm-Rudman-Hollings, a balanced budget amendment, or caps on mandatory spending are bound to fail because they are too rigid.

Gramm-Rudman-Hollings was counterproductive on many levels. It ignored real deficit reduction, encouraged accounting gimmicks, and damaged Congress' public reputation. This contrasts with the Budget Enforcement Act which has worked by providing an enforcement mechanism for the substantive decisions contained in the package.

While possible procedural refinements may be looked at, leadership is essential in order to make any system effective. The existing system enables the leadership to move the process along while providing fair treatment of conflicting points of view. As divided government has ended, it is likely that further calls for budget reform will cease. Perhaps more important than procedural reform, fiscal policy decisions will be improved if the campaign finance system is modified to reduce the influence of special interests.

Reviewed the work in the early 1980s of the Rules Committee Task Force on the Budget Process. The panel was formed to address complaints aimed at the 1974 Budget Act. Their changes included a policy by the Rules Committee of permitting only major budget substitutes to be made on the floor, as well as rules to provide greater consultation between the Budget Committees and the authorizing and appropriations committees on any procedural provisions in budget resolutions. They also made recommendations which were subsequently incorporated as part of Gramm-Rudman-Hollings in 1985, including a single budget resolution, an accelerated timetable, and strengthened controls through points of order. Biennial budgeting and a proposal by Rep. Obey to combine the budget resolution with all 13 appropriation bills were also studied. While their merits were weighed, the measures were not recommended.

Concluded that the current review process should be maintained. Procedural attempts to achieve deficit reduction and supermajority vote requirements on budget matters should be avoided. Recommended that the Joint Committee concentrate on other matters such as scheduling and the committee structure which would have a



greater positive impact on the institution than budget reform. Noted the need for a longer workweek, fewer committee assignments, and more oversight of programs.

Although it is not within the Joint Committee's mandate, also wanted to add that campaign finance reform would be the single most useful change. The pursuit of contributions and the influence of PACs distorts the legislative process.

### Questions and Answers

Spratt: Is it correct that your Task Force didn't recommend any major changes in the budget process?

Beilenson: That's right, they were mostly a ratification of the way the process was evolving. While you could always have a better process if you start over again, the current system has worked relatively well. Deficit reduction requires political will and the process doesn't matter very much.

Cohen: Given the current campaign finance system, does your acceptance of contributions have an impact on your voting?

Beilenson: No, although I have concerns about the potential. I don't accept PAC contributions, but bundling of individual contributions still presents a concern. The chief difference is that the ordinary small contributor does not expect nor gain special treatment.

Cohen: The view seems to be that undue influence is always someone else's problem.

Beilenson: You are right. As a state legislator, I was always surprised at the votes of some of my colleagues, and suspected they were bought off by contributors.

Cohen: I agree that Gramm-Rudman-Hollings did not create dishonesty, but instead was distorted by congressional cowardice. Do you favor the line item veto?

Beilenson: Each Member would probably favor it if they supported the President then in office. While my views are not strong, I don't support it. There is a misconception that it is a major deficit reduction tool.

Cohen: I agree. What about enhanced rescission?

Beilenson: I haven't spent much time thinking about it. It may be worthwhile. Part of the problem is that recent Presidents have not used the authority they already possess, including the ability to veto appropriation bills.

Allard: You seem to indicate that the system is okay, but that the blame lies with the President?

Beilenson: Correct. Leadership is essential.

Allard: Do you believe increased deficits are responsible budgeting?

Beilenson: I certainly do not, although at times deficits are acceptable.

Allard: Would the process be better served by a Joint Budget Committee?

Beilenson: You need some sort of over-arching budget process, and that would be one method. However, I don't see how the current system could be greatly improved upon.

Allard: Would you support a budget resolution that would permit an open rule to make motions on the floor?

Beilenson: We had that system formerly, but we tended to get bogged down in debating the details of budget assumptions. One year we had over 80 amendments. That's why we went to a system that only considers complete substitutes. If you want to be able to deal on a detailed level with the budget resolution, then you need to adopt the Obey proposal, where the details are real. You don't want to have to spend so much time on a budget resolution whose details aren't real, and then go to the appropriation and authorization processes.

Allard: Shouldn't the budget process be more concerned with revenue estimates?

Beilenson: In effect, that is what we have now. Unlike pre-1974, the budget resolution allows us to look at the whole picture. We can look at revenue estimates for the coming year and make decisions accordingly.

Allard: I don't recall revenue figures being discussed as a constraint on spending, but they should be the main focus.

Beilenson: Time constraints prevent discussion on many topics.

Allard: Unauthorized appropriations are a concern.

Beilenson: We see it all the time on the Rules Committee. We have done a good job in recent years of controlling the problem. Special rules generally only waive points of order against unauthorized appropriations if the authorizing committee has not objected.

Allard: Unauthorized appropriations are in bills because the authorizing committee has not objected?

Beilenson: No question. The Rules Committee generally doesn't include waivers if the authorizing committee objects, so a point of order could be used in such circumstances to strike unauthorized appropriations.

Obey: Political will, not process, is what is important in budget matters. States which have a balanced budget requirement have been creative in their bookkeeping to achieve technical compliance, such as moving things off-budget. A similar federal law would likely prompt similar gimmickry.

Beilenson: You cannot bring the budget into balance in a short time. A balanced budget amendment would invite manipulation of the numbers.

Obey: My experience in state government has led me to believe that a President may use a line item veto not as a deficit reduction device, but to pressure Members, sometimes in ways that could even increase spending.

Beilenson: My experience as a state legislator was similar. As Governor of California, Ronald Reagan used the item veto as a weapon to get votes on legislation.

Obey: Any line item veto or enhanced rescission would be a fraud if you don't involve Ways and Means in the process.

Beilenson: I agree. Their jurisdiction includes all revenues and many of the largest entitlement programs.

Obey: Pre-1974, political pressure was part of the system because the public and press could see when we spent more than the President's proposal, more than we should. Now, with the President's budget, the congressional budget, baselines, and everything else we don't have a single standard to measures against. The emphasis is instead on the process.

Beilenson: It seems your suggestions have been vindicated given the current problems.

#### Panel Presentation by Stephen Bell, Louis Fisher, William Pound, and Joseph White

##### Stephen Bell

Recommended a two-year budget cycle and melding the authorizing committees into the Appropriations Committees. Revenues should also be more strongly integrated into the process by placing them in a new subcommittee of the Appropriations Committees. The time available to look at problems should be expanded.

Also believes too much unwarranted attention is paid to perks. The important goal should be to arrive at well considered legislation. Given the recent large turnover, a knowledge gap has become a serious problem.

Louis Fisher

The 1974 Budget Act was in part concerned with reducing the size of the deficit, but did not prove an effective tool. Gramm-Rudman-Hollings, the Budget Enforcement Act, and even President Clinton's proposals have all failed to adequately contain the deficit. The main problem has been a lack of presidential leadership. The President makes a proposal and then absents himself from the proceedings until the end of the process. Rep. Obey correctly points out that Congress adheres closely to the aggregates in proposed presidential budgets, differing only in the details.

An elegant or comprehensive process isn't necessarily best. While they are sometimes convenient, the post-1974 results have greatly harmed the country. Elimination of the budget resolution should be studied. This course would put increased pressure on the President to lead, while freeing Congress to do what it does best: decide the details. CBO and the Budget Committees should be retained, however, to provide the information necessary to make the process work.

William Pound

While some states with balanced budget laws have found ways to evade spending limits, they are generally adhered to. The problems facing Congress are much more complex than those in the states, and this might not be an appropriate solution. Balanced budget requirements affect every other aspect of state budgeting.

The budget process at the federal level must be simplified. The committee structure must be revamped, perhaps by combining appropriations and policy making. Smaller, more powerful committees, however, might create tension with other committees.

Consensus revenue forecasting has worked well in the states, and promotes cooperation with the executive in setting budget targets. Forty-three states have the line item veto. Its major impact has been in horse-trading, not in controlling spending. It does create an atmosphere where certain kinds of spending is discouraged. Biennial budgeting has proved difficult in states which have it, and the trend has been away from it.

Joseph White

The system of checks and balances dictates that the President must lead, but Congress needs to retain its position as the first branch of government. Because the size of the deficit inhibits efforts to have an effective fiscal policy, budget resolutions might currently be a waste of time. The line item veto or enhanced rescission would do little good with respect to the budget while damaging the proper role of Congress. A balance budget amendment may backfire; its current meaning is very different from what it would be if the budget were already balanced.



Budget process reform is not a substitute for leadership; some proposals are better than others, some are misguided, but weakening Congress's power of the purse is not the answer. Keeping the process flexible is valuable, particularly less frequent and less detailed budget resolutions. Procedures which encourage the President to submit a responsible budget, such as guaranteeing a vote in Congress, are best.

### Questions and Answers

Allard: If we had a balanced budget amendment, would federal procedures be more analogous to those in the states?

Pound: Yes, but it would also have an impact on the budgeting of the states if there is also a transfer of responsibilities to the states.

Allard: I agree, currently states often have difficulty predicting revenues and expenditures, because of the imposition of new federal mandates. Based on experience at the state level, what should the Congressional Budget Committee's structure be?

Pound: State budget committees vary tremendously. Colorado has a Joint Budget Committee with only six members, Utah has a joint appropriations committee that includes all legislators.

Allard: Your testimony and Mr. White's would seem to be contradictory, with regard to state division of labor. Do all states have separate authorizing and appropriation processes?

Pound: That contradiction is more apparent than real. What has happened is that the powers of state authorizers have sometimes been diminished, and appropriations committees have become super-authorizing committees. The trend is not healthy.

White: I agree, historically, the authorization process has diminished in strength, but I would not recommend a system which allowed appropriators to write specific laws.

Allard: What about the Kassebaum proposal?

Bell: Not a good idea. While I agree on the general strategy that actions need to be more deliberative, I don't agree with the specifics. Should not eliminate the Appropriations Committees. Appropriations controls the purse strings, where real power rests. A Joint Budget Committee, appointed by the leadership, would enhance responsibility.

Allard: Wouldn't an open floor procedure create more accountability?

Bell: Yes, because it would slow down the process, and slowing down the process makes for better legislation.

Fisher: The pre-1974 system had a greater role for the leadership. The new process should maintain CBO to give information with the Budget Committees providing coordination.

Obey: I am sold. The Budget Committees should be the scorekeeper. Too much energy is spent on the budget resolution. That's the best choice, but what about some other possibilities? Should we combine the Ways and Means and Appropriations Committees?

Fisher: Good idea in the short run, but it would be a large committee. Historically major concentrations of power in Congress are short lived.

Obey: What about a two-year budget resolution, and a Budget Committee comprised of chairmen and ranking members of all the authorizing committees as well as the leadership?

Fisher: Not a bad idea.

Bell: The only debate on fiscal policy occurs on the budget resolution. Ways and Means should be part of the process.

Pound: As in the states, the leadership has to be involved.

Fisher: Operations at the federal and state levels are not always analogous, such as with an item veto. At the state level appropriations bills are itemized, at the federal level they usually are composed of more general lump sums. Changing the format to accommodate an item veto would be a radical change. One that I suspect the executive branch wouldn't be very happy with.

Obey: I agree, the executive branch frequently makes revisions to lump sum appropriations. Maybe an item veto for the legislature would be helpful.

Spratt: If you have a committee comprised of Ways and Means and Appropriations, why have a Budget Committee?

Bell: The Budget Committee should be maintained as a scorekeeper, to prevent manipulation of the numbers.

Spratt: Might larger, more powerful committees hinder the creativity and expertise of smaller groups and reduce participation.

Bell: It is a concern, but the change would probably be an improvement.

White: The Obey and Bell proposals are different. Obey advocates combining budget and appropriations functions; Bell advocates abolishing the authorizing committees.

Fisher: Members left off the committee wouldn't tolerate that kind of concentration for too long.

Bell: You would be taking away some powers from most Members.

Spratt: Why are states able to cap entitlements while the federal government has difficulty doing it?

White: One reason is that state entitlements are for poor people while federal entitlements generally benefit the middle class, people who vote, so there are greater political costs.

Pound: Another reason is that states do not have indefinite appropriations. Even if they need to provide a supplemental appropriation to supply full funding it is a conscious decision, involving explicit trade-offs with other programs.

## HEARING SUMMARY, MARCH 25, 1993

**Two Witnesses:** Representative Martin Olav Sabo, Representative John R. Kasich

Representative Martin Olav Sabo

Remarked that there has been a great deal of media commentary about gridlock in Washington. The expeditious and thorough manner in which both the House and the Senate considered the budget resolution this year demonstrates that there is a lot that's right about the way the budget process works. Stated that because the budget process is operating as it was originally intended, his proposals to change the process are not dramatic.

Expressed opposition to proposals for a constitutional amendment to balance the budget. We have had our Constitution for two centuries, while the persistent budget deficits have only existed for two decades. Therefore, the Constitution is not our problem. Furthermore, if such a constitutional amendment had already existed, we would never have been able to undertake Desert Storm, fight the Cold War, or make good on the Federal Government's commitment to all those individuals who entrusted their life's savings to the Nation's savings and loans. We should not clutter our Constitution with an unnecessary and restrictive amendment. The Constitution of the United States is no place for economic policy options. A constitutional amendment is not needed. We enacted the Budget Enforcement of Act of 1990 which provided for \$477 billion in deficit reduction without such an amendment. In addition, the House and Senate have approved President Clinton's proposal that, when fully implemented, will provide more than \$500 billion in deficit reduction over the next five years.

Stated that the proposal to combine the House and Senate Budget Committees into a Joint Committee on the Budget is a mistake. Such a proposal would not be advantageous to the House. The House should not compromise its most important functions--originating federal tax legislation and initiating appropriation policies--by having them submerged in joint budget committee deliberations.

Endorsed Chairman Natcher's comments last week before the Joint Committee defending the appropriations process.

Regarding proposals that would change the accounting procedures in order to eliminate the deficit, observed that it may be useful to look at the budget in a variety of ways--the current way, a capital budget, or a deficit reduction trust fund. But these accounting procedures will not eliminate the deficit. However, moving Social Security off-budget was a good idea since it provides some sort of symbolic reassurance that Social Security money is dedicated to a specific purpose.

Because of the separation of powers principle, I oppose proposals to permit the President to participate directly in the formulation of budget resolutions. The congressional budget process was created to restore the Congress's role in the



formulation of fiscal policy. The President has many methods to gain the result he desires without this change.

If we want federal income to be in balance with federal expenditures, we have to make some hard decisions. We have made hard decisions in the past, such as the Budget Enforcement Act of 1990, which I supported. The simple truth is that federal expenditures have been reduced because of control legislation we have passed.

The heart of my message today is that the congressional budget process is a relatively young mechanism. It is only 20 years old. Because the process is so young, we should be very careful about making dramatic changes that are untested by experience. The experience of the first Gramm-Rudman-Hollings Act taught us important lessons that we incorporated in the revisions that followed. It is this kind of change--less dramatic certainly than a constitutional amendment--that has brought about genuine improvement. Any continued improvement we make will be more fruitful if we base our changes on the experiences we have already had. We know from experience that reconciliation works. We have already had nine. The reconciliation measure in the current resolution recommends the continuation of overall caps for discretionary spending and pay-as-you-go provisions for an entitlement increase or tax reduction. It is flexible--it is not long term and there is room for emergency funding. The flexibility to change in a timely manner is crucial to the success of the budget process.

We should not make wholesale changes without knowing what their consequences will be. Many of the changes that are being touted today are untested and unworkable.

There is no substitute for hard decision making on the part of Congress or the President. The real problem has been obtaining political agreement between the President and Congress on the budget.

The current budget process and the two Budget Committees should be retained. At its core, the congressional budget process is necessary for Congress to retain and exercise its responsibility for economic and fiscal policy in an era of strong Executives.

### Questions and Answers

Hamilton: Some say the congressional budget process is too complex because of the three-tier approach--budget resolution-authorization-appropriations. Do you think any tier should be eliminated?

Sabo: I don't think you can eliminate any tier. Historically, the appropriations process worked well--staying within the discretionary spending limits.

Hamilton: What do you think of a multi-year budget process?

Sabo: We need more multi-year authorizations. I'm skeptical of multi-year appropriations. I think it would produce more supplementals. The importance of the budget resolution from year to year varies depending on the political circumstances. I think it's important to point out that we need a fundamental agreement between the President and Congress.

Hamilton: There has been criticism of the budget process that there have been too many waivers. What's your reaction?

Sabo: Many times waivers have little to do with money. They relate to timing. They usually have to do with process. Historically, discretionary spending has been within the limits.

Hamilton: What is your opinion of enhanced rescissions?

Sabo: I do not support the idea. I think the current system works well. As I mentioned previously, discretionary spending has been within the limits.

Hamilton: What is your opinion of the line item veto?

Sabo: I am opposed to it. It would transfer power from Congress to the President. However, if a line item veto is enacted, it should also include tax expenditures.

Hamilton: What do you think of a two-year budget cycle?

Sabo: A biennial budget is worth exploring, but we would have problems in the years when the President changes.

Hamilton: What do you think of proposals to reconstitute the Budget Committees so the leadership plays a greater role?

Sabo: I think it would be a good idea to have the House Budget Committee chair appointed by the Speaker.

Hamilton: Do you think the House should adopt a rule similar to the Senate rule prohibiting extraneous matter in reconciliation measures?

Sabo: I'm opposed to that. Even under the present system, we don't know whether some of the language in the reconciliation bill will be considered as extraneous matter in the Senate or not.

Hamilton: Some have criticized the current discretionary baseline stating that it is biased toward increased spending because it includes an assumption for inflation. What's your opinion?

Sabo: The purpose of the current discretionary baseline is to treat discretionary spending the same way entitlements are treated. The entitlement baseline includes

an assumption for inflation. I think they should be treated in the same way. If you eliminated the assumptions for inflation for discretionary spending, entitlements, and taxes you would have to change many laws. If you only eliminate the inflation assumption for discretionary spending, it pushes the spending bias toward entitlements and that is where the increases in spending have been occurring.

### Representative John R. Kasich

Congressional reform cannot be achieved unless the congressional budget process is also modified. Congress spends an inordinate portion of its legislative schedule on either the budget resolution, reconciliation, authorizations, or appropriations. It is impossible to separate overall Congressional reform from changes in how Congress makes budget-related decisions.

The existing House Budget Committee and the resultant budget process flowing from the Committee's actions should either be strengthened or abolished. The Budget Committee is often prohibited from doing an even more effective job of establishing and enforcing budget priorities. The following improvements should be made: 1) strengthen the budget resolution by giving it the force of law; 2) require the Budget Committee to explicitly state the policy assumptions that drive the numbers included in the budget resolution; 3) broaden the jurisdiction of the House Budget Committee; and 4) enhance the Committee's ability to enforce the budget resolution.

First, the budget resolution should be converted from a concurrent resolution into a joint resolution subject to the President's signature or veto. I believe the central role of the President in the budget process should be formalized by allowing the President to accept or reject the budget resolution. Without such a joint budget resolution, there is no single legislative vehicle by which Congress and the President can agree upon regarding the outlines of budget policy. The President, under current procedures, is limited to responding in a piece-meal fashion to each of the 13 appropriations bills, sundry authorization bills, and an occasional reconciliation bill.

Second, the budget resolution numbers should be driven by policy decisions at the program level. The Budget Committee should consult with the authorizers and appropriators. Have the Budget Committees decide on the aggregate numbers and the authorizers and appropriators provide needed information on the policy decisions that should be made to achieve those numbers.

Third, the policy assumptions underlying the budget resolution need to be clearly stated and subject to public debate. The current practice obscures the many policy assumptions that generate the aggregate numbers. For example, over the past month, President Clinton has challenged the Republicans to come up with their own budget. The House Republican Budget Committee members did. But, the Democratic members did not explain the policy assumptions behind a spending reduction of \$63 billion. We found that we couldn't engage in a national debate on

the specifics, since the Democrats didn't provide them. I think the policy assumptions should be debated up front. Budget Committee members should not have to wait until after mark-up to determine from the Committee's report the policy assumptions behind the budget resolution numbers.

Fourth, the jurisdiction of the House Budget Committee needs to be expanded to encompass the entire budget process. Just as the Senate Budget Committee has, the House Budget Committee should have jurisdiction over the Budget Act, Gramm-Rudman, and the Budget Enforcement Act. It is ludicrous for the House Budget Committee to exercise no jurisdiction over the very statutes it is responsible for enforcing.

I'm not opposed to proposals to change the composition of the House Budget Committee to provide expanded or exclusive representation on the Committee by members of the leadership and authorization and appropriations committees. I think we should eliminate the tenure limitation on members of the House Budget Committee. Under the current system, some members of the Committee tend to view themselves as representatives of the authorization or Appropriations Committees rather than as stewards of the budget. In addition, with permanent members of the Committee there would be greater member expertise, than would be the case with the present rotation system.

Fifth, Congress should be prohibited from waiving the Congressional Budget Act. Between the 96th and 102nd Congresses, the House Rules Committee waived 537 violations of the Budget Act. More significantly, the rise of blank waivers have effectively eliminated any enforcement under the Budget Act. Republican support for automatic and sequester-type budgetary mechanisms that tend to erode congressional control over the budget process is largely a response to the inability of the House to enforce its own budget rules.

Finally, I encourage the Joint Committee to explore performance-based budgeting. It sets objective performance measures to determine the effectiveness of a program and requires the affected agency to report whether the goal was realized. Congress would then be able to determine if a program or agency should continue to receive funding based on program outcomes. This approach could achieve billions of dollars in program savings.

I hope the reforms recommended by this Committee are directed towards improving the accountability of policy makers in reaching budgetary decisions and ensuring that those decisions are effectively enforced.

### Questions and Answers

Hamilton: Some say the congressional budget process is too complex because of the three-tier approach--budget resolution-authorization-appropriations. Do you think any tier should be eliminated?



Kasich: I support combining the authorization and Appropriation Committees. I think the authorizers and appropriators should decide together. Under the present system, the Appropriations Committees appropriate funds for programs that were never authorized. In addition, such a combination would result in a reduction in total staff members.

Hamilton: There has been criticism of the budget process that there have been too many waivers. What's your reaction?

Kasich: If we continue to have all these waivers then there is no reason for the Budget Committees.

Hamilton: What is your opinion of the line item veto?

Kasich: I support the line item veto. It allows the President to make the hard choices. However, the problem is political will. The line item veto or a constitutional amendment to balance the budget are no substitutes for political will.

Hamilton: What do you think of a multi-year budget process?

Kasich: I support multi-year appropriations for defense since it would save money. We would have to examine each of the other programs to see in which cases a multi-year approach would be appropriate.

Hamilton: Some have criticized the current discretionary baseline stating that it is biased towards increasing spending because it includes an assumption for inflation. What's your opinion?

Kasich: A baseline with assumptions for inflation is a dumb idea because a cut in spending is often really an increase. There may be programs in which an assumption for inflation would be appropriate.

Hamilton: What single piece of advice would you give to the Committee.

Kasich: Be bold! Right now, there is a window of opportunity that you must take advantage of.

## HEARING SUMMARY, MARCH 30, 1993

Three Witnesses: Representative Bob Michel, Former Senator Henry Bellmon, Former Representative Bill Gradison.

Chairmen Boren opened the hearing, stating that it was the last in a series of hearings on budget reform. He introduced Minority Leader Michel.

Representative Bob Michel

Stated that the budget process is arcane, consisting of layers and layers of revisions that attempt to control individual spending and revenue actions. The 1974 Budget Act first required Congress to look at the budget as a whole. Overall priorities were to be enforced throughout the year as individual spending, revenue and debt measures were acted on. In the mid 1980's, Gramm-Rudman was an attempt to bring down the deficit. The latest version of this act provided for categorical sequesters. In theory, the budget process gives Congress sufficient controls over spending decisions with discretionary caps, pay-as-you-go rules, and authorization requirements providing additional controls.

The process, however, is ineffective for several reasons. First, the congressional budget resolution has become a political statement of the two parties. There is no longer any give and take between Members to reach an agreement. In addition, because any alternatives must be in the form of complete substitutes, there are no cut-and-bite amendments on the House floor, denying the opportunity to reprioritize spending decisions. On individual spending bills, the House routinely waives Budget Act points of order, the very tools that prevent us from violating our budget goals and targets.

Second, the debate is so closely controlled and carefully constructed by the majority party that there is no longer an open process in which to directly affect spending decisions. Furthermore, many programs are funded that have never been authorized. Other programs are on automatic pilot so that unless the underlying mandate is changed, spending continues to grow. Even discretionary caps and pay-as-you-go rules are overridden by declaring a spending emergency. We must now make a bold change in our attitude as to how we approach the job of making budgetary decisions.

A balanced budget amendment is such a bold change. It would contain a requirement that the total outlays not exceed total receipts unless 3/5 of the whole House provided for that by law.

A two-step budget would allow Congress and the President to agree on how much we consume and spend out and on any resulting deficit. Then, the pie could be divided up to determine how it should be spent. This procedure could be implemented as the constitutional amendment is debated by Congress and the States.

An aggregate-only budget should be in the form of a joint resolution so that Congress and the President agree on these levels. If a deficit is contemplated, then a 3/5 vote would be required by Congress. Then the President, based upon these aggregates can submit a detailed budget proposal and Congress would pass a budget resolution. Spending priorities would be enforced through committee allocations, reconciliation, and points of order when spending and revenue legislation is considered later in the year.

To streamline the process, a Joint House-Senate Budget Committee is recommended. This committee would be comprised of representatives from the leadership and major committees. A two-year cycle should be used with a two-step budget. The budget process should be more open so that Members can reprioritize or cut spending.

Amendments providing limitations on appropriations bills should be permitted if they are introduced in bill form with at least 50 cosponsors. Amendments should also be permitted if they increase spending and are offset with comparable reductions within the same appropriations bill.

I have introduced H.R. 493 which would give the President authority to rescind discretionary budget authority in appropriations bills or veto any targeted tax provision in revenue bills. The President should have line-item veto to get at special provisions in both appropriations and tax bills. It is an effective tool that could discourage unnecessary spending or special tax provisions that cost money.

### Questions and Answers

Boren: This testimony has given us a lot to think about. When pending legislation on the House floor violates the budget resolution, can you raise points of order?

Michel: No, the rules often close us out.

Boren: In regard to appropriating unauthorized legislation, Senator Byrd urged that we find a way to enforce the rule against unauthorized appropriations. If the process worked, it would produce a check and balance system that would place a break on spending. Do you agree?

Michel: Yes, I believe in establishing rules and sticking to them.

Boren: Right now there are differences in the two Budget Committees. The House one has a rotating membership while the Senate has permanent membership. You are suggesting that we change this into a joint committee. How large would this committee be? Who would be the members? Committee chairs and ranking members?

Michel: I have not really thought about the numbers, but as the House already has a rotating system, and as we are used to changes, we are easily adaptable to any new situation.

Boren: Should the President sign the budget resolution as part of the process?

Michel: Yes, we need to have agreement, settlement on the same parameters.

Boren: So your system would have the joint committee set the budget resolution, send it to the President and then bring it to the House and Senate. What is the main advantage of the joint committee?

Michel: It would speed up the process and save time. Right now, things are moving quickly because one party is in control. This brings about more teamwork between Congress and the President. The process would slow down if this unity did not exist.

Allard: I am concerned about the situation on the floor of the House and the restricted voices there. Do you think that with all of the regulations and rules the process is being skewed, resulting in more spending?

Michel: We are heading that way this year.

Allard: There are a lot of individuals who want to offer amendments to limit spending, but they are not allowed to do so.

Michel: There is an unfortunate situation within this problem: the pressure on individual Members to do things for their constituents. This leads to spending. If the measure of effectiveness is going to be how much pork you can get, then there will be increased spending.

Allard: I am an advocate of a line item veto. How do you feel about a tax and appropriation line item veto as a constitutional amendment?

Michel: There may be a problem in defining it.

Allard: Would it be appropriate to have a constitutional line item veto, but have a tax line item veto statutory?

Michel: I only recently came around to the idea of a balanced budget amendment. It must be realized, however, that such an amendment does not mean that taxes will never go up.

Lugar: Senator Kassebaum has suggested replacing the Budget Committee with a Leadership Committee comprised of committee chairs, ranking members, and party leaders. This Committee would divide the money among all of the committees. The question is, however, what kind of dollars do you start the discussion with? Should



we use real dollars as the base line and then gauge things in terms of an increase or decrease from the base line?

Michel: In regard to the proposed Leadership Committee, party leaders are already too loaded down with responsibilities. Party leaders are members of the Budget Committee, but we have to assign leadership appointees. The idea of the Committee takes us away from the right of review. A reason to retain the authorization and Appropriations Committees is because they are the only review we have.

Lugar: Even if the leaders are not included, there is still the question of what does the committee start with: discretionary spending, but not entitlements, or both? Does a program such as food stamps need to be looked at each year? In the budget process, a joint committee is an intriguing idea, but would having both houses dealing with everything right from the beginning be too unwieldy?

Michel: It may be too large and unwieldy, but the idea is a good place to start from.

Dreier: One of the greatest reforms would simply be to comply with the existing rules of the House. The problems in the House, such as restrictive rules, make the work of this Joint Committee more challenging.

Michel: Opening the rules to everyone is a key issue. You become incidental if you never have a chance to make an impact.

Dreier: The system is closing out both Republicans and Democrats.

Michel: In addition, limiting time to deal with key issues to one or two hours is demeaning to the system.

Kassebaum: We can all learn from the experience and integrity of today's witnesses. One major concern is about how to handle entitlements. Would there be support for ending all entitlements, except Social Security, and moving them to appropriations?

Michel: Before 1974, how much of the budget was entitlements? After Nixon was denied line item veto authority, spending stopped. Then, it was done through entitlements. Now, just thinking about looking at some of these issues brings in the interest groups exerting pressure.

Kassebaum: Head Start and the student loan program are both heading towards full funding. We need to be very thoughtful about how this is done. It was good to hear your thoughts on the frustrations of the budget process.

Cohen: In listening to your testimony, something you said struck a nerve. The most melancholy wounds are self-inflicted ones. We are the ones running against the institution. Success is achieved through pork, but the country wonders at an

unexplained case of trichinosis. Ross Perot is a figure who provokes either admiration or hostility, but he is talking about solid values like balance and restraint. He is sending the same message as yourself, Senator Dole, and Senator Domenici. There is much frustration over the restrictive procedural rules. A balance must be struck. The issue of balance is also seen in the wish for line item veto authority and a balanced budget amendment, but it is unlikely that these will be achieved. An alternative measure is expedited rescission which would require a vote on measures stricken from the budget by the President. Now, these issues just fall away. A vote would require Members to show their preferences.

Panel Presentation by Former Senator Henry Bellmon and Former Representative Bill Gradison

Former Senator Bellmon

Stated that no plan to organize Congress or restructure the budget process can substitute for political will. Elected officials must make the tough choices in order to cure our economic problems. Congress needs statutory spending limits backed up by automatic across spending cuts which have come to be known as sequestration.

Congress should move to a biennial budget and appropriations process. One year will be devoted to the budget, spending, and tax legislation while the next will be for considering proposals, conducting oversight, and authorizing spending. Congress may also want to give the President more flexibility to execute and implement policy.

The House and Senate should combine authorizing committees and Appropriations Subcommittees. Every Member should serve on a tax writing committee or on one of the combined authorizing/appropriations committees.

To give the process more clout and stronger leadership, the Budget Committees should be reconstituted as separate House and Senate Committees on National Priorities. These should be leadership committees comprised of committee chairs and ranking members of the tax writing and authorization/appropriation committees. They would have jurisdiction over legislation affecting the Budget Act and the budget process. If Congress can not adopt a conference agreement by a certain date, then the process should move ahead using the President's numbers.

Remarked that Congress and the President should agree on binding spending limits, including limits on entitlements. These limits should be written into law. If spending exceeds these limits, then automatic cuts should eliminate the overage.

A line item veto should be employed, but as an interim measure, a system of enhanced rescissions can be used. The President would then not be forced to choose between vetoing massive appropriations bills or signing into law wasteful programs. Any effective budget process must be universal, open, understandable,

and enforceable. Recent experience suggests that the problem does not lie in the budget we adopt, but in the enforcement of the budget.

Asserted that only interest should be exempt from expenditure limits and sequestration. Expenditure limits should be annually adjusted for changes in unemployment, inflation, and case loads. Technical adjustments should not be a guise to hide mistakes in estimates of the cost of spending and tax policies. Congress should stop trying to fine-tune fiscal policy for every blip in the business cycle. Economic stabilization should be left to the monetary policy process. A Fiscal Policy Advisory Board composed of leading economists or budget experts, who are not government employees, may be utilized. They should provide non-political, professional comment on the forecasts and estimates made by official government agencies. Also, the expenditure side of the budget should include a small reserve, under the control of the President, for contingent liabilities and emergencies.

There should be a statutory requirement that every budgetary proposal provide certain information in a consistent format. Information should also be provided to constituents. For example, every time the IRS mails out tax reforms, they could include a report to taxpayers on the budget process.

These recommendations are two-fold: make government and the budget process more accountable and understandable, and create real political embarrassment when Congress or the President fails to live up to the promises made in the budget. The budget can be balanced by spending cuts and/or revenue raising, but the deficit will never be reduced unless you agree that there is an amount of money more than which Congress and the President will not spend, and then stay within those limits.

#### Former Representative Bill Gradison

Stated that there has been an argument over whether the purpose of the 1974 Budget Act was to reduce the deficit or to establish a framework for fiscal policy. The two purposes are not mutually exclusive. The budget process should be an overreaching process. Congress should be able to have a budget process. It is a simple choice between chaos and rationality. A budget process, however, can not substitute for what Congress does not want to do. A good process alone will not solve the problems. Strong leaders are needed. There should be institutional reforms to strengthen leadership and the parties.

The process is not the problem, the problem is the problem. There are two solutions to the deficit: spending cuts or raised taxes. Gramm-Rudman I and II focused on deficit levels, but this did not work. The BEA focuses on control of spending and provides a promising realistic framework. The 1974 Budget Act planned a one-year cycle. Gramm-Rudman and the BEA have been moving towards multi-year cycles. With multi-year cycles, there is more time to be spent on oversight. In this respect they are better than one-year cycles.

It is necessary to acknowledge that the BEA of 1990 called for spending reductions in the last two years. Those reductions should be occurring now, but they are not going to happen.

Explained that a line item veto will just change the process; spending might still go up. It would change the relationship between Congress and the President. The President is a political person with public pressure. The President may not want to use the line item veto for spending programs. Our government is based on checks and balances that make change difficult. Government is conservative in this manner.

The budget resolution should be sent to the President to be signed. This should be started now while we have a unified government and such a rule can be legislated. In addition, the Budget Committee has evolved into a leadership committee. It can be reduced in size without severe repercussions; the results will still be the same.

### Questions and Answers

Boren: What is your reaction to a Joint Budget Committee acting as a leadership committee? Will such a committee lead to an early consensus? Also, should the budget resolution be signed by the President?

Bellmon: I am not sure that the President needs to sign the budget resolution. As for one joint committee, we almost have one now in the conference committee.

Gradison: I do not believe that we have ever had a joint legislating committee. We should probably allow differences to be thrashed out in separate committees and then go to a conference.

Boren: Should the President's numbers be used as a ceiling?

Bellmon: Instead of having to stop and wait, the President's numbers should be used.

Boren: What is your reaction to returning to enforcing the rule of no appropriations without authorization? Would this create an effective check and balance system?

Bellmon: Authorizing committees do not seem to take their work seriously. They do not restrain spending. Usually they have only a vague idea about what funding is necessary.

Gradison: It will not make a difference how it is set up because it is too easy to get a waiver. There should just be one big rule fight at the beginning, then follow the rules.



Boren: Do you favor the use of a supermajority to attain waivers or to overturn points of order?

Gradison: You need to recognize that elections count. The 51% in the House should be able to do business.

Boren: Then should we not allow rules restricting budget points of order?

Gradison: There is a mismatch between the rules and the practice. We need to make them match.

Boren: With a two-year budget cycle, what would keep us from the temptation of supplemental appropriations?

Bellmon: We have supplementals now. It could be worse in a two-year cycle, but if you embarrass Congress for not following the budget, then spending can decrease.

Gradison: I prefer the term multi-year. Its easier to get a five-year deal than a shorter one.

Boren: In regard to sequestration, budget numbers will be set in law and if those numbers are exceeded there will be an automatic sequestration? Will it be across the board or in the offending area? How do you define an offending area?

Bellmon: It is wrong to punish a program that has not violated the rules. The focus should be on those programs which have.

Boren: If 22 billion dollars were appropriated for food stamps and they go over, does the committee get a chance to restructure the program to fit the numbers?

Gradison: The base for sequestration should be as broad as possible. As a practical matter, the broader the base, the less likely that Members will allow it to happen. You get the attention of every Member because all programs may be effected. One is less likely to trigger sequestration if one's own program may be affected.

Boren: What about entitlements?

Gradison: Entitlements should be kept separate from discretionary spending because the processes are so different.

Boren: If a committee exceeds a cap, should there be a time limit before sequestration? Should the committee have a grace period to fix things and bring the numbers back under the cap?

Gradison: There should be an ongoing report card. The key is for Congress to know how it is doing, whether they are over or under the caps.

Dreier: One idea is to have Members serve on combined appropriation/authorization committees. In the House, appropriators can not authorize. There has been concern about Senators who serve on both authorization and Appropriations Committees because they take care of things during the appropriation stage.

Bellmon: Authorization committees do not take their job seriously.

Dreier: You do not see a conflict with Members serving on both?

Bellmon: No.

Gradison: The most important issue regarding committee assignments is spreading Members too thin. You can not control for every problem concerning subject matter. The problem that can be controlled is size.

Dreier: Concern was expressed by Representative George Brown because his Senate counterpart dealt with issues in the Appropriations Committee rather than the authorization committee. There is a six year limit on service on the Budget Committee in the House. Is rotation a good idea? Should the Budget Committee have greater enforcement ability? Should the Budget Committee retain all jurisdiction over the budget resolution?

Gradison: The Budget Committee should function as a leadership committee. Rotation really does not matter, it is not a major factor today. The committee should be given more enforcement power. Also, there is no relevant reason why the Rules Committee should be involved.

Domenici: If you look at the President's budget, it is functional. So is the budget resolution. But when you look at spending, there is no correlation between appropriations and the figures. We need to find more common ground and stop crosswalking. If you can not follow from the President's budget to the allocations to committees, then you can not see if he is getting what he asked for.

Bellmon: Crosswalking is insane, but common ground will be hard to achieve.

Gradison: It could be achieved if Congress's law requiring the President's budget also stated the format that was to be used.

Domenici: There is no qualitative reason why appropriators use the system they do. A two year budget cycle with room for adjustments would save time and accomplish more than any other reform. Why is Congress so against it?

Gradison: Appropriators like making decisions each year, but we should have multiyear budgeting. The reluctance is on the appropriation side. It is a fight worth taking, but it will be hard to sell.

Bellmon: Appropriators like to appropriate. It gives them clout.

Domenici: The argument against a two-year cycle is that oversight is done only by the Appropriations Committees. But since the two-year cycle provides for a full year of oversight, what is the concern?

Gradison: The oversight would not be broad enough.

Domenici: Six years ago I introduced a bill for a joint leadership committee for budgeting. What are your thoughts on this?

Bellmon: I would recommend separate leadership committees for each house.

Domenici: We need a more effective budget resolution. It is dawning on everyone that amendments do not mean anything because appropriators may not want to do things the same way when they allocate. With a bill that has the leadership bringing the budget back to the House and Senate, they will be voting on the final appropriations. Now we can not even get a binding vote on how much to spend on defense. Perhaps we should vote on three separate budgets -- defense, domestic, and foreign, then amendments would count.

Boren: There is partisan polarization in both houses. This is not good for the country. We need joint political responsibility in order to achieve reform. Now there are locked steps and individual skills are not being used. We are not working across the aisle. Why is this? What can we do?

Bellmon: I suggested to Senator Muskie that we fight our battle within the Budget Committee and then stand together on the floor. This system worked well for us.

Boren: In Intelligence, we try to avoid votes. Instead we concentrate on finding a consensus.

Gradison: I never considered myself an automatic vote for my party. There are advantages to this dilemma. It clarifies for the public what the issues are and who is standing for what. Part of the polarization may be the release of frustration of the majority party from the end of 12 years of divided government. It is easy to understand what the majority is doing and it is what they should be doing. The effects of this will lessen because of responsibilities to constituents.

Domenici: With a new President, party loyalty builds up. But the budget will not work if both parties are not consulted. The deficit will not be brought under control unless mandates and entitlements can be gotten at without partisanship. If budgets are the policy statements of the country, then the parties should differ there. Bipartisanship depends on what you are going to do. Why worry about partisanship in the budget when the House is partisan on Rules and Ways and Means?

Boren: If a budget resolution can not be reached, then a mechanism has to be found to get the process moving again. With extreme partisanship, polarization is to the left and right leaving the moderate majority out of it.

Gradison: It is not easy to come out of partisan battles and work together next time.

Boren: Perhaps changes at the committee stage will result in joint stands.



## HEARING SUMMARY, APRIL 1, 1993

Eight Witnesses: Senator Wendell Ford, Representative Karen Shepherd, Representative Eric Fingerhut, Representative Tillie Fowler, Representative Peter Torkildsen, Senator Patty Murray, Senator Robert Bennett, Senator Paul Coverdell

Senator Wendell Ford

Stated that as a member of the Joint Committee on the Organization of Congress, he was aware of the many distinguished and knowledgeable people who had already shared their ideas, and that it was an honor to add his. The Committee was created with the sole purpose of finding ways to make Congress more efficient and more accountable to the American people.

Remarked that he was before the Committee to talk about a two-year budget cycle, an issue that he had been championing with Senator Roth since 1981. A two-year budget cycle would accomplish the Committee's mission of making the Congress more efficient and effective.

He said it was not only a good idea, but a tested one. When he appeared before the very first joint hearings on budget reform, the two-year budget was new in Washington but in force in 22 states, including his own state of Kentucky. As a former Governor, his experience with a two-year budget cycle enabled his administration to lay out a master plan that allowed agencies, local governments, and constituency groups to do long-term planning. It led to greater efficiency, overall cost savings, and peace of mind about future funding.

In 1991, after the Senate committees completed their first two-year budget cycle, Senator Nunn testified before the Senate Rules Committee. He stated that this new budget cycle "allowed us more time to actually administer our budget and gave us greater flexibility to plan activities and to meet unforeseen requirements".

Noted that he offered the idea of a two-year budget cycle not as a new gimmick to reduce the deficit, but as a management tool. He recognized that it won't replace the tough decision-making necessary for deficit reduction, but it would make the Congress's work more efficient and effective -- precisely the goal of the Committee.

He explained that a two-year budget would have a number of benefits including: providing for more long-term planning at all levels of government, eliminating redundancies in the process, and allowing additional time for program oversight. More effective program oversight is particularly important because it could target additional instances of waste or abuse, help prevent another savings and loan crisis, and save tax dollars.

The concept is simple. Congress would enact a concurrent budget resolution, two-year appropriations bills, and a two-year reconciliation bill in the first session; the second session would be devoted to authorizations and oversight. Any such proposal should provide flexibility to meet changing circumstances and national

emergencies; keep in check the delicate balance of power; and preserve congressional appropriations powers. However, a biennial budget could be crafted to accommodate these concerns.

Cited President Clinton's economic address in which the President said that it is not enough to simply cut government; we need to rethink the whole way it works. Believes Congress could meet this challenge by the President by enacting a two-year budget cycle.

### Questions and Answers

Boren: If we go to a two year budget cycle, how do we guard against supplementals, and revisiting controversial issues?

Ford: You make the tough political decisions the first year, and exercise oversight in the second year. There are some problems, but it will give constituency groups, like cities and counties, the ability to plan.

Boren: On a related topic, what about the idea of a joint budget committee or separate committees in each chamber composed of leadership members of the relevant standing committees? Should we keep the status quo or look at other alternatives?

Ford: I think we should look at alternatives. Some good ideas have been presented, particularly by the freshman class. I don't want to say one will work better than another. There are ways for us to save money, to stretch our dollars, but we don't want to move too fast. We want to avoid mistakes.

Boren: This is a question regarding oversight. There are currently approximately 300 committees and subcommittees. There are too many committees overseeing each agency. Should we take steps to reduce the numbers? Senator Byrd, I believe, has suggested that we reduce the number of committees Members can serve on. Do you think it is advisable to consider this?

Ford: There should be 200 "A" committee slots and 100 "B" committee slots, and that ends it. We don't have time to serve on more committees. When I was Governor we reduced the number of committees, creating the same committees in both chambers. We could be more efficient if we did the same.

Kassebaum: I strongly support a two year budget cycle. I am interested in Kentucky's experience and the notion of combining jurisdictions. How would you feel about combining authorizing and Appropriations Committees?

Ford: Careful consideration must be given to what jurisdiction you give the authorizing committees. I appreciate the need for reduction, but we shouldn't frighten our committee chairs.

Lugar: What concerns me most is who furnishes the leadership for such a plan. Would it be the leadership of each chamber? Would the President help to advance the idea?

Ford: I would hope the President would applaud what we are trying to do here, but the responsibility is ours.

Lugar: How would we get to the point of having the leadership support it?

Ford: This has to be a cooperative effort -- the key is to put something meaningful together.

Norton: I can't believe that a two year budget cycle hasn't been implemented sooner. I am not troubled by supplementals, because if they occur it would be because there is a good reason for them.

Emerson: As a long-time advocate of a two year budget process, I look forward to working with you. As a result of the unpredictability of the budget process, we create more problems for ourselves. We also need to spend a lot more time exercising our oversight authority. We need to spend at least half of our time on oversight.

Ford: I look forward to your support. We make work for ourselves here. We need to reduce our work in order to spend more time making sure government agencies are operating more efficiently.

Boren: After the 1946 Reorganization Act, we had a total of 38 standing committees. Select committees were unheard of. When I was Chair of the Intelligence Committee, we did away with subcommittees. Several other committees on which I serve have subcommittees that don't do much. Where should we go with the total number of committees and subcommittees? If we do what you suggest, and reduce the number of committees and subcommittees, it seems to me we have two ways to go. Should we decide which committees and subcommittees should be eliminated? Or, once we create committees, should we limit the maximum number of subcommittees, to 2 or 3, that each committee could establish? Then the decision as to which subcommittees to have would be left to the committee chairs. Also, parallel jurisdictions would be a tremendous help.

Ford: We will have fewer subcommittees with 200 "A" committee and 100 "B" committee slots. The Appropriations Committee needs 13 subcommittees. Some of our colleagues that serve on 4 "A" committees hold up committee business; they get delayed getting to a committee session where business is on hold waiting for their arrival. Subcommittees will not proliferate if we reduce the number of "A" committees.

Boren: We also may limit the number of subcommittees on which a Member may serve.

Ford: We usually serve on only one subcommittee of each committee. I think that limiting the number of subcommittees Members serve on could work, but I wouldn't squeeze the chairs too hard.

Boren: We would have to establish a schedule so that Members would have no excuse for not attending committee meetings. Should we have the "A" committees meet on one day, and the "B" committees meet on another?

Ford: I think you give a chair a target number of subcommittees, but leave the specifics as to which to create up to the chair.

Panel Presentation by Representative Karen Shepherd and Representative Eric Fingerhut

This, their second appearance before the Committee, was the fruit of two months of work on a comprehensive set of far-reaching and ambitious proposals comprising the Freshman Democratic Reform Package. Four subcommittees looked at hundreds of reform ideas. After extensive consultations with virtually all Democratic freshmen colleagues, a thoughtful package touching on many of the important issues relating to the effectiveness, responsiveness, and organization of the Congress was developed and ratified.

Their package includes twenty-six specific proposals aimed at renewing the spirit of representative government, which fall under four broad categories: campaign finance reform, limiting the role and influence of lobbyists, fiscal responsibility and congressional ethics, and effective and efficient government.

They emphasized that campaign finance reform and lobbying reform are the linchpins of genuine congressional reform and are the essence of their package. Their package calls for immediate action on campaign finance reform including: voluntary overall limits, needed to cap runaway campaign costs; alternative resources, such as communications vouchers, as incentives for candidates to agree to limits; and tight new restrictions on so-called soft money.

Endorsed President Clinton's call to eliminate the tax deduction for lobbying expenses and recommended the use of associated revenues as a funding source for campaign finance reform. Political Action Committees need to have limitations on the overall contributions they can make to a campaign and tough new guidelines are needed on independent expenditures.

Discussed the need for institutional reforms to make Congress more effective and efficient. These include the need to establish standards for committees that would reduce multiple committee referrals and to find ways of dividing the work of Congress more evenly. Cautioned that the elimination of any committees or subcommittees should insure that the subject matter within their purview is not lost.



Also wanted assurances that committee chairs are responsive to the Caucus and that acting committee and subcommittee chairs are subject to confirmation by the Caucus. Their package also directs the Steering and Policy Committee to make recommendations for committee assignments that reflect the diversity of the Caucus.

With regard to the issue of budget deficits, believed the Congress should take the extraordinary action of reducing the spending of the legislative branch by 25% over five years. This would be accomplished by streamlining the structure of the Congress while preserving essential constituent services.

Asked both supporters and critics of their package to consider the same standards they applied in designing their package of reforms: do the proposals strengthen the faith of the people in their government; do they make the institution more responsive to average Americans and less to special interests and; do they make the Congress a more effective policy making body, a more efficient tool to implement the public's will?

### Questions and Answers

Allard: I was hoping you would come up with more specific recommendations. I was interested in knowing whether you favor term limits for committee chairs?

Fingerhut: No. Certain members of the freshman Democrats do favor them, but the consensus indicated opposition to the idea. However, we recommend consideration of the following when determining committee chairs: merit, length of service on the committee, the diversity of the Caucus, and support for the majority party agenda.

Allard: You express concern about the seniority system, but you include length of service as a criteria. Is there not a contradiction here?

Shepherd: There was concern about destabilizing the system in a major way. Attention should be paid to people who have served this body for a number of years. We believe seniority should be a consideration.

Fingerhut: It should be a consideration, but not the only one, which is what it has been to date.

Allard: Should we do away with proxy voting?

Shepherd: My personal opinion is that until we change our schedule, it would be impossible to do away with it.

Dunn: Our two panels of freshmen [Republicans and Democrats] need to find areas of common interest. The elimination of proxy voting may have a positive impact, by encouraging better attendance at meetings. You may want to talk to your group about that. What about expanding the work week, i.e., three weeks on, one week off. Did you have any discussions about it?

Shepherd: Yes, we discussed it at length, but we reached no consensus.

Fingerhut: The proxy voting issue is a chicken and egg one. Before we consider the elimination of proxy voting we need to address committee overlap, so that we won't need to be in two places at once. We agree on the goal. We simply need to agree on how to get there. There are a number of things to take into account, such as scheduling, which is a major source of frustration. Committee size is also part of the problem. I would be happy to be think about a five day work week, but not five ridiculous days in which little is accomplished.

Dunn: Are there areas for us to reach a common goal?

Shepherd: We have some agreement on cutting the budget, but not necessarily on where to cut.

Fingerhut: We agree on the need to address the problem of committee jurisdiction, to even out the work of Congress. We agree on that as a goal.

Shepherd: We agree on making the laws apply to Congress the same way they do in the private sector.

Boren: I am elated to hear your comments about campaign finance reform. As the author on the Senate side of campaign finance reform, I am pleased with your recommendations and am optimistic that we will be hearing from the White House on this soon after the Easter recess. I am also happy to hear you talk about lobbying reform. Did you address the revolving door question?

Fingerhut: I am embarrassed to say we didn't. But the same sentiment of these recommendations would apply.

Boren: I think there is agreement in both parties that we need to change the climate. I am also pleased with your interest in reducing the size of committees. It will make us more efficient, stop the splintering of time, and result in savings. We fully expect both chambers to enact some meaningful reforms. The support of freshmen Members on both sides of the aisle is crucial. You are right on target and we want your input and appreciate your support. You are doing a service to Congress and to your country. You give us a real shot in the arm, and reform a strong chance of success.

Dreier: I would like to join my colleagues in congratulating you. I am pleased with a number of items in your proposal, but I believe we need to have more open rules. We are going, in fact, to decrease the number of committees and subcommittees as a by-product. I have asked the following question of all freshmen Members appearing before this Committee. Would you be willing to give up a committee or subcommittee on which you have been serving?

Shepherd: I would agree to do that, but we need to have the opportunity to work on entities where we have expertise. As freshmen, we are concerned about being shut out of the process, and desire opportunities to use our expertise.

Fingerhut: Yes, even though one of my committee chairs is sitting next to you. We came to Congress because of our desire to influence public policy. If there is a more even spread of the workload, then it would be easier to say yes we have had some impact.

Dreier: You have followed the pattern of other freshmen in responding yes. Other issues of interest to me are giving Members a chance to examine legislation before it is voted on, and avoiding conflicts between committee meetings and floor sessions.

Shepherd: One final thought on the issue of select committees. I hope the issues within the purview of these committees don't get lost.

Dreier: I agree with the need to put their issues in the substantive committees where they can be properly addressed.

#### Panel Presentation by Representative Tillie Fowler and Representative Peter Torkildsen

##### Representative Tillie Fowler

Described how as co-chairs of the class's task force on reform, they sent out a questionnaire on reform to all freshmen Republican Members, compiled the responses into a list of approximately fifty ideas, met several times to debate and narrow down reforms for the package, then drafted a package of nineteen items. The package seeks to open up the democratic process, bring "sunshine" to the institution by allowing the press and the public access to business now kept secret, and make Members more accountable for their actions.

Reinforced the Republican freshmen class's commitment to working with the freshmen class of Democrats to find areas of mutual agreement. Only by working together would they affect the change that the American people are seeking.

Their reform package includes:

- 1) term limits for Members (fifteen states have passed term limits measures);
- 2) limiting committee chairs/ranking members to three terms, thus opening up the process;
- 3) reducing the number of committees and subcommittees;

4) requiring a two-thirds vote to bring a closed rule to the floor (underscored the fact that in the 95th Congress there were one hundred seventy-nine open rules, last Congress there were thirty-seven and in this Congress there have been none);

5) requiring that all legislation contain a fiscal impact statement on government spending and private sector spending (mandated costs), in the belief that Members should know in advance how much an initiative will cost taxpayers both directly and indirectly;

6) banning proxy voting in committees and subcommittees;

7) prohibiting suspension of the rules for any measure costing over \$50 million (require a two-thirds vote to suspend this rule);

8) requiring a three-fifths majority vote for tax increases;

9) requiring roll call votes on all appropriations and revenue bills; and

10) requiring an annual vote on mandatory budget spending.

#### Representative Peter Torkildsen

Asserted that the American people have two major concerns which the freshmen Republicans have attempted to address in their package: whether Congress is working in the general interest or for a slate of special interests, and that spending cuts should start with Congress before they reach federal programs and/or the pocketbooks of Americans.

Outlined and defended the following reform recommendations:

1) Eliminate the Appropriations Committee, transferring its authority to authorizing committees, and making the budget resolution binding. While recognizing that this may be the most controversial proposal, their class believes the current system is unnecessary and a duplication of authority which can result in additional spending.

2) Make all laws apply to the Congress, rather than having Congress exempt itself.

3) Allow public access to discharge petitions, in an effort to make Members more accountable for their cosponsorship of bills and to make chairs more responsive to the will of the House. Noted that it is possible currently for a bill to have 434 cosponsors but never come to a vote on the floor, unless it is through a discharge petition which is kept in a locked desk on the floor of the House.

4) Give the President a line-item veto, which is a management tool requested by the President and is in force in forty-three states.



5) Ratify a balanced budget amendment, in order to reach the goal of deficit reduction.

6) Reduce committee budgets by a total of 25 percent, as championed by Representative Dunn of the Committee. The recently passed committee funding bill really did not cut committee budgets at all.

7) Reduce franking accounts and require automatic disclosure of monthly franking reports.

8) Return to the treasury all savings from the elimination of the select committees and any unspent Member's office funds.

9) Reduce spending on former Speakers by limiting the allowance to three years from retirement.

Recognized that their reform package would not solve every problem, but it represents a common sense start toward restoring public confidence in the Congress.

### Questions and Answers

Dunn: I would like to offer my commendation to you for holding the freshmen class together. My question has to do with fairness and closed rules. Would you explain the closed rule proposal for us?

Torkildsen: Currently, under a closed rule no amendments are allowed; under a modified closed rule only those amendments approved by the Rules Committee can be debated. The problem is that this shuts off non committee Members, both Democrat and Republican. It limits everyone's ability to participate. Our proposal would require a two-thirds vote before a closed rule could be used.

Fowler: In recent years we've seen some alarming changes. This year zero percent of the rules have been open.

Dunn: With regard to the reduction in the franking allowance, do you have any percentage in mind?

Torkildsen: Ten percent would be the absolute minimum, but it could be as much as twenty-five percent. The current franking allowance is too high. You can allow Members to answer letters without such a huge mailing allowance.

Fowler: Also, Members should disclose where money is spent.

Allard: I would like to compliment the freshman class for raising such issues as letting the sunshine in regarding discharge petitions, by revealing who has signed the petition; franking; returning to the Treasury savings from the elimination of the select committees; and reducing the spending on former Speakers. These are all good specifics. Have either of you served in your state legislature?

Torkildsen: Yes.

Allard: What was your experience on the issue of balanced budgets and accountability?

Torkildsen: The line-item veto and the balanced budget work well together. A line item veto allows a Governor to say if you add these items, I will veto them, and it results in legislators electing not to include the items in the bill. I believe it would work well at the national level.

Fowler: I served as a municipal official for seven years. It works well in Florida, and would work well here. I am also concerned about unfunded federal mandates, and what this does to our cities and states.

Emerson: I want to commend you and the Democratic freshmen. We should and will pursue the issues you've raised during the deliberative process of this Committee, because you are fresh among us and add a healthy perspective from people of this country. I must say on the issue of select committees, the way it was handled was thoughtless. There should have been a more rationale process, such as extending them temporarily until their elimination was thought through.

Fowler: We are all working to insure that these issues are not lost.

Torkildsen: We wanted to offer an amendment regarding select committees but under the closed rule one was not allowed.

Emerson: You are right. That is what should have happened. I've been told to shut up on this, that I am beating a dead horse. However, the Republicans acquiesced and the Democrats were wrong in suggesting that they had the votes for a two year authorization.

Hamilton: I am impressed with the process you used, the questionnaire. We hope to do the same in this Committee. My question deals with how many reform proposals to put on the table. How many can this body digest? Of your recommendations, which one, two, or three stand out?

Fowler: We were unanimous on two, the line-item veto and the balanced budget amendment.

Torkildsen: I would say public access to discharge petitions, making closed rules rare, and reduced franking accounts. It is very difficult to narrow it down because we looked at this as a package; these are nineteen of many.

Dreier: I don't want to be partisan, but I like your proposal better than the Democrat's. It is one that we should consider and will.

Fowler: I want to emphasize that there are five or six areas where we do agree. We need to come together and work on these.

Dreier: The 110 of you are the key. We need to put together a solid block of votes to have a meaningful, rather than a cosmetic, reform package.

Torkildsen: I would like to add the elimination of the Appropriations Committee to our top three. It should probably be elevated above others.

#### Senator Patty Murray

Urged Members to hear the call from Americans to stop business as usual and end the gridlock. Americans are frustrated with Congress, and Congress must make sacrifices at a time when the American people are required to make sacrifices.

Expressed concern about duplication of effort, citing as an example separate payroll systems for the chambers and the benefit of issuing payroll checks once a month as in the House rather than twice a month as in the Senate.

The second message she brought from the people was for Members not to abuse the power given to them by the people, a prime example being sexual harassment. As a state Senator, she helped draft the first policy on harassment and discrimination for the Washington State Senate.

She is pleased that an Office of Fair Employment Practices has been established in the Senate; it is a good first step. In addition, individuals who have experienced sexual harassment must have access to the full range of remedies, including compensatory and punitive damages as well as reinstatement with back pay. She also would like to institute special education and training programs for Members and staff and hopes the Senate will take the lead in this effort.

Described the cost of running for and staying in office, the schedule, and other demands that discourage many from seeking public office. Some of the solutions, such as campaign finance reform and procedural changes, are much discussed but rarely seen. Believes her power to prevent legislative action far outweighs her ability to move legislation forward.

Believed the Senate leadership has proposed some changes to make the schedule more predictable, such as counting time in quorum calls against the Senator who called the quorum, limiting debate on motions to proceed, and requiring amendments to be germane. Added to that list: 1) making available beforehand the list of possible amendments to a bill, including brief explanations; and 2) requiring that no vote can begin on an amendment until a written copy has been made available.

Concluded that all the reform in the world will be meaningless unless the Congress has the courage to vote to make a difference.

### Questions and Answers

Boren: I followed your career and had many of the same campaign experiences you did. I want to assure you that this Committee is interested in real reform. On the issue of fracturing of time, do you agree that there is a need to reduce the number of committees in general as well as the number of committees on which a Member can serve?

Murray: I agree wholeheartedly. It is most frustrating to have to be in forty different places at once and all important places. My one concern is that there are so many issues, if we cut back we might not be able to work on the issues that are important to us and to our constituency.

Boren: Do you support the interest in putting Congress under the same rules as other institutions?

Murray: That is the one comment I have heard most from the people.

Boren: On another subject, when Members appear before the Ethics Committees of the House and Senate, do you think that at least for part of the process we could involve people from outside the Congress or enlist the aid of former Members? What is your reaction?

Murray: I have thought about that, and agree that one part of the process, whether at the beginning or end, should have other than current Members. It would not only give an additional and impartial view, but would relieve Members of the Ethics Committee from some of the many hours they spend deliberating these matters.

Boren: I would hope we are able to do this, particularly in the fact-finding stage. I appreciate your comments very much on the subject of having information on amendments before voting on them. In the state legislature in which I served, we voted on proposals that were in writing so that Members could look at legislative language. Here it is up to the staff to write the legislative language. Was your experience similar when you served in the state?

Murray: Absolutely.

Boren: We welcome your thoughts.

Dreier: Your colleague and a member of this Committee, Ms. Dunn, truly has been in forty places at one time.

Dunn: I would like to add that the state of Washington leads the Nation in the percentage of women in the legislature and the number of women in Congress. My question to you is whether you think it is a good idea, in the Senate, to have a three weeks on, one week off arrangement?



Murray: I do think it is a good idea, particularly when one's state is across the country, where a weekend means no time in state. We also need to pass rules to use our time more wisely while we're here.

Dunn: I was also interested in your comments on the issue of the composition of the Ethics Committee. I am pleased to have been appointed to the House Fair Employment Committee. One suggestion might be to have former Members participate during the exploratory phase.

Murray: I have given that some thought. It might be difficult to get former Members without compensation.

Dunn: Do you see both parties coming together on reform? Are there areas of agreement?

Murray: Frankly, the House freshmen have been much more diligent than the Senate's. We haven't had time to get together to say what works and what doesn't.

Allard: I was particularly interested in your comments regarding Congress complying with laws that other institutions live under. What can we do?

Murray: I am glad you are working on this. There are no magic answers. Maybe through rules changes in the House and Senate. The perception in the world is that we treat ourselves like royalty.

Allard: I think we need to be covered under these rules. We would have a better appreciation of what the public goes through if we were.

#### Panel Presentation by Senator Robert Bennett and Senator Paul Coverdell

##### Senator Robert Bennett

Remarked that having just come off of an election, he believed the issue of congressional reform to be a particularly important one. There is a strong mandate for reform.

As a former business consultant, recognized that when something is going wrong it is almost always a problem with the system rather than the employees. He cited the former Soviet Union as the most dramatic example. It is one of the most wealthy nations on earth, with intelligent people, etc. Yet they have had a disastrous situation because of the system they were living under.

One of the major problems he sees in the Congress is gridlock caused by overlapping jurisdictions and failure of the congressional system to reach closure on matters. He reminded Members that it took ten years to get a comprehensive energy bill passed because it was assigned to numerous committees.

Believed the establishment of task forces might help ameliorate the problems. They have been used effectively and can accomplish a great deal.

Urged Members to consider the following scenario: Congress convenes the first Monday or Tuesday after the new year, elects its leadership and for the next fifteen days meets for the purpose of coming up with a prioritized list of five items (a hypothetical number) for consideration, e.g., health care, the deficit, etc.. For the next fifteen months, the Senate would be grouped into five task forces, and each Member could only serve on one, and traditional partisanship would not exist. Once task forces were formed, there would be twenty Senators on each. They would elect their leadership without regard to seniority and would do their work drawing on whatever expertise they need. On a preassigned date each task force would bring forward a proposed solution to one, and only one, standing committee of the Senate, which would have the rest of the session to consider the proposal along traditional lines.

Items that didn't fit into the five areas would be referred to traditional standing committees. Members could only serve on two standing committees in addition to the task force. This would more closely approximate the fact-finding procedures one finds outside the Congress and would serve to eliminate gridlock inside the Congress.

### Senator Paul Coverdell

Stated that he has fundamentally found that there is a great deal of the congressional process that is correct and he appreciates the ability to have an appropriate airing of views that are important to our Nation. Senate rules are exceedingly important and House rules are less oriented towards rules dealing with minority participation. He believes the minority needs to have sufficient authority to insure that a proper airing of views occurs.

What was most striking when freshmen Senators first met was that no matter where each was from, the language from constituents was the same: they want a balanced budget amendment. Citizens see this as part of the process of the Congress and do not understand why it doesn't exist.

Directly under that on their list is the line item veto; while Members might not see this under their purview, thousands of Americans do. Also, without exception, there was unanimous disdain for a Congress that imposes rules that it does not abide by itself. The American people fail to understand why an institution of this importance chooses to act this way.

All new Senators spoke in favor of term limits. The fact that so many states have adopted it underscores the frustration that exists with Congress. There needs to be a response to the issue, if not through term limits then through other modifications to the process that make people feel that the Congress is responsive.

Another issue of concern is federal mandates -- Congress imposing criteria for states and localities, to fulfill with no financial responsibility of its own.

Dreier: And we don't provide the money.

### Coverdell

We don't believe in them enough to fund them. We just pass something and let them handle it. We might impose on the Congress a two-thirds or supermajority vote before we impose a mandate.

Another area of frustration is a pay raise for Members, not preceded by a vote by Members. This has created more animosity in my state than any other issue. It is a very difficult subject that cannot be ignored.

The institution is still held in high regard and seen as a keeper of democracy. However, clouds are gathering that cannot be ignored.

### Questions and Answers

Dreier: The people of both Utah and Georgia are both well served by you. Senator Bennett, I was struck by your discussion of Eastern and Central Europe. We are making recommendations to their parliaments, and given the concerns we have

about our own institution, maybe we shouldn't. I have asked all freshmen about their willingness to give up a committee, notwithstanding their interest in being involved in all the issues of concern to their constituents. Would you be willing?

Bennett: Of course.

Coverdell: I would go one step further. I had the opportunity to serve on another committee, but rejected it.

Dreier: On the question of federal mandates, how do you propose we address the separation of powers issue? I am sympathetic to the exemption issue, but there is some danger in passing this over to the Executive Branch.

Coverdell: We've already crossed this threshold selectively and we are looking like an institution trying to protect itself. On all of these issues, we can formulate very reasoned arguments against making these adjustments, but it will only be heard by us. The American people will not accept it.

Dreier: We have stated that we will not pass cosmetic reforms. Senator Bennett, would you provide us with a more detailed explanation of your proposal.

Bennett: I set time limits only for illustration purposes, they are not etched in stone. One thing one does in the business world is to go on a retreat to set priorities. It is a technique of modern problem-solving. You get rid of the overlapping jurisdiction problem by only having one committee handle the issue. I was appointed as a member of a strategic planning commission of the Utah Board of Education. This was a group of people with opposing views. We came up with a mission statement, a set of priorities, and we hammered out a plan that would put Utah schools into the 21st century. It was then given to the state legislature to deliberate.

Allard: Both Senators have talked about changes and did a very good job articulating them. I am very concerned about Congress exempting itself from the laws it passes. I don't know how to get the message to our colleagues that the people do not like to see that happening.

Coverdell: Maybe we should go back and reflect on the Federalist Papers. I think it was Madison who warned against this. Maybe in there is rooted the argument related to separation of powers.

Bennett: I am devoted to the separation of powers. It is the bulwark of our society. However, I think it is used as an excuse.

Allard: But Members have no qualms about imposing restrictions on others.

Bennett: If we impose them on Members, maybe they would understand the concerns of the public.



Allard: I would like to bring up the issue of term limits. Colorado was the first state to pass term limits and now there are some fifteen states that have passed them. What do you think of term limits being applied to the chairs of your committees?

Bennett: Initially, I stated that I was opposed to term limits and could make eloquent arguments in opposition to them. But I feel that those arguments are not relevant in today's society. The net effect is that it removes the enormous power of committee chairs. I think we should consider the committee chair issue.

Allard: As the term limit issue become mores important, it will assure Members that there will be a turnover in power.

Coverdell: I directed an agency that had a term limit on all staff to keep the agency alive and vibrant and not become burdened with bureaucracy. In a nation of 258 million plus, the talent is enormous. If we have such a turnover it would be enriching and benefit the Nation greatly.

Dreier: You are the two closing witnesses before Easter recess. Thank you for bringing such creative ideas before us.

## Background and Issues: An Introduction to Congressional Budget Process Reform

Reform of the budget process is the next area to be focused on as the Joint Committee continues its hearings and considers recommending changes in Congressional organization to the Congress. Seven days of hearings to review and consider proposed reforms of the budget process have been scheduled for the month of March. The purpose of this memorandum is to provide background information about the role of the budget process in Congressional decision-making, and introduce specific issues that may be a primary focus of the hearings. In addition to this memorandum, additional memoranda about specific budget process reform issues will be distributed to all Members of the Joint Committee.

### **I. Background on Budget Process Reform and the Joint Committee's Role**

The term budget process refers broadly to all of the rules and procedures that affect Presidential proposal and Congressional consideration of spending and tax legislation. The term encompasses two different categories of rules and procedures-- (1) the traditional rules that govern the formulation of the budget in the executive and legislative branches, and (2) rules that have been enacted more recently that try to force or enforce deficit reduction actions.

#### A. General Rules Governing the Budget Process

The more traditional category of budget process actions includes rules and procedures such as those established by the Budget and Accounting Act of 1921 and the Congressional Budget Act of 1974 (the Budget Act). These rules guide the formulation and consideration of the federal budget but do not impose any restrictions on budget outcomes.

The Budget Act in particular focused on the role of the Congress in the budget process. This Act created in each house a Budget Committee, which was given the responsibility for drafting a concurrent budget resolution--a blueprint for future Congressional action on the budget. Both the creation of the Budget Committees and the establishment of the Congressional Budget Office (CBO) were intended to provide the Congress with greater budgeting expertise.

Certain reforms have been proposed that would change the general rules governing the budget process. More concretely, these proposals relate to the structure of the budget process (including relations between the authorizations and appropriations committees), the timing of budget decisions, the relationship between the executive and legislative branches, and the information provided to assist Congress in making budget decisions.

### B. Procedures Aimed at Deficit Reduction

Since the mid-1980s, Congress has increasingly turned to rules and procedures that are intended to ensure or enforce some predetermined outcome--a balanced budget or a budget that complies with some previously agreed-to budgetary decisions. Such outcome-oriented rules and procedures have been put in place by the Balanced Budget and Emergency Deficit Control Act of 1985 (popularly known as Gramm-Rudman-Hollings), which was amended in 1987, and the Budget Enforcement Act of 1990 (BEA).

These two laws were fundamentally different, however. While Gramm-Rudman-Hollings set deficit targets in an effort to force actions to reduce the deficit, the Budget Enforcement Act attempted to enforce the actions already agreed to in the budget summit agreement of 1990 through establishing (1) ceilings on discretionary spending and (2) a pay-as-you-go (PAYGO) process covering revenues and mandatory spending. Proposals that prescribe budget outcomes (such as a balanced budget amendment to the Constitution or caps on mandatory spending) or enforce compliance with budget actions (such as the discretionary caps and PAYGO in the BEA) would also fall in this category of budget process reform.

### C. Importance of This Distinction for the Joint Committee

It is important for the Committee to consider the distinction between the role of the budget process in organizing Congressional work on the budget versus its role in focusing attention on or enforcing deficit reduction. The former is clearly within the scope of the Joint Committee's mandate. Regardless of whether the budget is in deficit or surplus, Congress would need procedures to govern its consideration of the budget, and the Joint Committee will clearly need to focus on whether changes could be made that would make the budget process work better.

It is less clear, however, whether the Joint Committee should focus on measures primarily intended to enforce deficit reduction. For example, if a deficit reduction package is passed by Congress this year, it probably will include devices to enforce compliance with the package--perhaps devices such as those included in the BEA, or some other set of reforms. But this type of procedural change is somewhat separate from the underlying structure of the budget process and the ability of Congress to enact procedures to effectively manage that process, and, as a result may not be the main emphasis of the Joint Committee's work in this area.

## II. Current Issues

A brief summary is provided below of key elements of the budget reform debate that may be emphasized during the hearings. As mentioned, the Joint Committee staff is preparing more detailed memoranda about these and other budget reform issues.

These issues can be placed in two general categories. The first category concerns the roles of congressional committees and the executive branch in the budget process. The second category includes nonstructural topics such as the timing of budget decisions in the Congress, the coverage of the budget and the information necessary for budget decisions.

### A. Role of Congressional Committees and the Executive Branch

The current process involves three sets of Committees in the Congress, as well as the executive branch. The relevant congressional committees are responsible for discrete activities. The Budget Committees are responsible for drafting the budget resolution, the authorizing committees are responsible for drafting legislation establishing programs or policies, and the appropriation committees are responsible for drafting legislation governing levels of discretionary spending.

A clear distinction, however, does not always exist among these three functions. The budget resolution is intended only to set an outline of priorities among broad budget categories, but battles over details are sometimes the focus of debate and the cause of delay. Authorizations (under Congressional rules) do not permit any funds to be obligated, but often use statutory language explicitly to authorize the enactment of appropriations, specifying an upper limit to appropriations. This intertwining of funding questions with program questions, or program questions with priority questions, makes it difficult to distinguish between the multiple layers of the process. In fact, it often seems to Members of Congress as if they are acting three times on each item in the budget.

In addition to the responsibility of committees within the Congress, many people have focused on the relationship of the Congress to the President as an area ripe for reform. For instance, many reform proposals seek to increase the power of the President, or force the President to take responsibility at an earlier stage in the process.

Among the issues in this area that might be considered by the Joint Committee include a reconsideration of the structure and functions of the Budget Committee, a reform of the appropriation and authorization process, replacing the concurrent budget resolution with a joint budget resolution, and granting the President some authority to disapprove individual items of appropriation.



1. Reconsidering the Budget Committees' structure and functions could involve a number of changes. One proposal would establish a Joint Budget Committee to replace the Budget Committees in each House. This joint committee might draw its members from the leadership. Others have suggested returning to the pre-1974 process by abolishing the Budget Committees and/or eliminating the requirement for the budget resolution.

2. Reforming the appropriation and authorization process, either incrementally or radically, has also been the focus of some discussion. One proposal would reintroduce a deadline for committees to report authorizing legislation. For example, the Budget Act originally included a deadline of May 15 for reporting such legislation, but this was eliminated as part of Gramm-Rudman-Hollings. A second idea would be to change the format of authorizing legislation, by prohibiting specific dollar amounts in authorization bills, or by mandating longer authorization periods separate from the timing of the appropriations cycle. Third, the practice of appropriating funds in the absence of an authorization, which many cite as a substantial concern, could be further constrained. Finally, some have suggested creating one set of committees that would have responsibility for both authorizations and appropriations.

3. A joint budget resolution would involve the President at a much earlier point in the budget process than is currently the case. Requiring the President to approve the budget resolution could result in his formal involvement in Congressional action on macro-level policy questions. In the current system, the President's formal role is limited to presenting budget recommendations, and approving or disapproving Congressionally-passed tax and spending bills.

4. A line item veto or some statutory alternative would give the President the authority to disapprove individual items of appropriation, as opposed to the all-or-nothing choice that he currently possesses. The best known of these reforms is the line-item veto, which would require a constitutional amendment to implement. Recently, much more attention has been focused on adding to the President's rescission powers (under the Budget Act, a rescission cancels--or rescinds--budget authority). Two forms have been suggested--enhanced rescission (which make rescissions effective unless disapproved by both houses) and expedited rescission (which simply mandates a Congressional vote on Presidentially-proposed rescissions). Another form of statutory substitute, known as separate enrollment, would require each line item in an appropriation bill to be enrolled as a separate bill.

#### B. Issues of Timing, Coverage, and Budget Information

The Joint Committee could consider several nonstructural issues as well. One involves the timing of various budget decisions--whether some decisions are currently made too frequently, while others are not made

frequently enough. A second nonstructural issue that may be of interest to the Joint Committee involves the coverage of the budget itself--whether the budget should include (or exclude) a different combination of revenues and spending than those that are currently included. Third, the Committee might focus on budgetary accounting--the nature of the information that is provided to decision-makers in the budget process--and the incentives that are created by this information for effective budget action.

1. The timing of budget decisions could be changed in two primary ways. The first would be through the adoption of biennial budgeting. Adopting such a system could entail developing two-year budget resolutions, two-year authorizations, and/or two-year appropriations. Most commonly, proposers have focused on formulations that would place all budget legislation in the first year of a cycle, and non-budget matters such as oversight in the second. Another biennial budgeting proposal would stretch the current budget process out over two years. A second type of proposal to change the timing of decisions would require all programs to be reauthorized every few years according to an established schedule; programs not reauthorized would "sunset", or cease to exist.

2. The coverage of the budget has been the subject of vigorous debate. President Johnson's Commission on Budget Concepts (1969) advocated that the budget include all activities of the Government, a practice that has generally been followed ever since. More recently, however, some activities (such as the Postal Service and the Social Security trust funds) have been placed statutorily off-budget. Proposals have arisen to move other programs (particularly those financed through earmarked revenue sources) out of the budget. Others argue that the budget should cover activities that are currently excluded, including the contingent liabilities associated with government-sponsored enterprises and the costs passed on to state and local governments or the private sector through mandates or regulation.

3. The information that is provided in the budget, as manifested through budgetary accounting practices, can create incentives that influence the behavior of budgetary actors. Proposals along these lines usually focus on correcting tendencies perceived to exist in the current process that unduly favor certain actions over others. For example, the Federal Credit Reform Act of 1990 converted budgetary accounting for credit programs from a cash basis to an accrual basis in order to correct a perceived bias toward loan guarantees and against direct loans. Similarly, a change to accrual accounting has been suggested for other types of activities in the budget, including deposit insurance and pension insurance. Other perceived biases have occasioned calls for reforms such as capital or investment budgeting, or generational accounting.

### III. Tentative Schedule

Most potential witnesses for hearings about budget process reform could comment on a diverse range of specific issues and proposals. As a result, the Joint Committee's hearings in this area will not be structured around specific reform areas. Instead, all of the key actors in the budget process have been invited to testify and those willing to appear will be grouped by their role in the process.

The first hearing occurred on Thursday, March 4. Robert Reischauer, Director of the Congressional Budget Office, testified about budget process reform issues in general. On Thursday, March 11, Chairman Natcher of the House Appropriations Committee will appear. On Tuesday, March 16, authorizing committee chairmen and ranking minority members will provide testimony about their role in the process. Depending on the number of committee leaders who want to testify about budget process reform, an additional day of hearings in mid-March may be scheduled.

On Thursday, March 18, Members of Congress who have proposed reforms of the budget process will be invited to appear. On Tuesday, March 23, the Joint Committee will receive testimony from panels of scholars and public interest groups.

The chairs and ranking minority members of the House and Senate Budget Committees have been invited to close this sequence of hearings by participating in a session scheduled for Thursday, March 25. Invitations to appear before the Joint Committee also have been sent to Treasury Secretary Bentsen, OMB Director Panneta, and Laura D'Andrea Tyson, chair of the Council of Economic Advisors. We have not received final word from them about whether they will be able to testify before the Joint Committee.

#### IV. Conclusion

Many of the reform issues and proposals mentioned above, particularly those that focus on committee structure and functions, overlap with other reform areas that the Committee may consider. And unlike many of the reforms that have been the focus of budget process debate over the last ten years, most of the proposals mentioned in this memorandum do not focus primarily on deficit reduction. Rather, they deal more with the organization of the budget and the budget process and the information provided to decision-makers. A more sustained treatment of each of these issue areas will be provided in the detailed memoranda about specific proposals that are under preparation.



### The Role of the Budget Process in Reducing the Deficit

The role of the budget process in the overall effort to reduce the deficit has been a matter of substantial debate for most of the last decade. Some people believe that the budget process is integral to forcing the actions that are necessary to reduce the deficit. They generally propose that targets be set, either by statute or in the Constitution, that will serve to limit future actions on the budget as a whole or spending in some portion of it. Such outcome-oriented rules and procedures have been put in place by the Balanced Budget and Emergency Deficit Control Act of 1985 (popularly known as Gramm-Rudman-Hollings), and are included in proposed reforms such as a balanced budget amendment to the Constitution or caps on mandatory spending.

But a review of experience with budget procedures over the past decade indicates that while the budget process has an important role to play in any effort to reduce the deficit, that role is a limited one. In particular, although budget procedures are not substitutes for policy actions to address the deficit (nor are they sufficient to force such actions), they can effectively enforce actions that have already been agreed to. This is the approach taken by the Budget Enforcement Act of 1990 (BEA), which set up procedures to enforce the actions resulting from the budget summit agreement of that year.

#### **I. Budget Deficits and the Budget Process - Recent History**

Frustration with large deficits led to the enactment in 1985 of Gramm-Rudman-Hollings, which grafted additional rules on top of existing budget procedures. The act established fixed annual deficit targets that declined each year, and required a balanced budget in 1991. It also established a mechanism intended to ensure that the targets were not exceeded: if the estimated deficit at the beginning of a fiscal year exceeded the target for the year, automatic across-the-board cuts in spending for most discretionary and some mandatory programs (called a sequestration) would reduce the deficit to the targeted amount. The targets were amended in 1987, and the goal of a balanced budget was pushed back to 1993.

Although Gramm-Rudman-Hollings may have held deficits below what they would otherwise have been, it clearly did not lower the deficit to anywhere close to the targeted level. The original deficit target for 1990, the last year the Gramm-Rudman-Hollings procedures were fully in place, was \$36 billion. The revised 1990 target, established in 1987, was \$100 billion. The actual deficit for that year was \$220 billion.

In 1990, the Gramm-Rudman-Hollings procedures were largely replaced by the BEA, which resulted from the budget agreement adopted that year. Enacted in conjunction with a legislative package that provided deficit reduction of almost \$500

billion over five years, the BEA set up separate enforcement mechanisms for discretionary spending and for mandatory spending and revenue actions. These mechanisms--a limitation on discretionary spending and a pay-as-you-go requirement for mandatory spending and revenues--replaced the previous focus on fixed deficit targets with a concentration on limiting legislative actions that would increase the deficit. The BEA permitted adjustments to deficit targets for circumstances beyond the control of policymakers, such as the performance of the economy.

The BEA has been generally successful in its first two years in enforcing the deficit reduction actions that resulted from the 1990 budget agreement. The discretionary spending caps are holding; the appropriations committees and the Congress lived within their limits for 1991 and 1992 and actually reduced spending to a level below the caps in 1993. The pay-as-you-go process has discouraged major efforts to increase entitlement spending or cut taxes or both. Nonetheless, the deficit has not come down since the BEA was enacted. The factors that have led to an increase in the projected deficit since 1990 have largely to do with the deterioration of the economy and technical reestimates of revenues and spending, especially for Medicare and Medicaid, not from the policy actions that were the focus of the enforcement process enacted by the BEA.

## II. Lessons Learned From These Past Processes

The past seven years have provided an experiment in the efficacy of two very different approaches to using the budget process to reduce the deficit. Although neither Gramm-Rudman-Hollings nor the Budget Enforcement Act has resulted in the hoped-for deficit reduction, important lessons emerge from the actual results under each regime.

The primary lesson learned from these past attempts to reduce the deficit is that budget procedures are much better at enforcing deficit reduction agreements than at forcing such agreements to be reached. Gramm-Rudman-Hollings was enacted because the President and the Congress could not agree on policies that would reduce long-term deficits to the levels prescribed by the targets. But agreement could not be reached on enough real, permanent deficit reduction to lower the deficit to the statutory level. The experience under Gramm-Rudman-Hollings demonstrated that if the President and the Congress are unwilling to agree on a painful deficit reduction package, it is unlikely that any budget procedure can force them to agree. Instead, budgetary legerdemain (such as using overly optimistic economic assumptions) will likely be used to meet the letter of the law, and the hard decisions that would achieve real, permanent deficit reduction will still be avoided. Any budget procedure that establishes fixed deficit targets represents an attempt to force future agreements and is subject to this problem.

Conversely, if the President and the Congress agree on and enact a package of spending cuts and tax increases to reduce the deficit, budget procedures that

highlight and penalize deviations from that agreement can be effective. The procedures succeed in part because the participants in the agreement have an incentive to stick to the original terms, but this success also reflects the fact that it is far easier to block legislation than to enact it. The parliamentary impediments (such as filibusters in the Senate, the need to muster majorities in numerous committees and at various stages of the legislative process, or the two-thirds majority in each house required to override a Presidential veto) that make enacting deficit reduction (or any controversial legislation) so difficult also work against reversing deficit reduction legislation once it is in place.

Further, Gramm-Rudman-Hollings lacked credibility because it promised results that were virtually impossible to achieve, and it invited evasion through phony estimates and budgetary gimmicks. Reaching the original deficit targets or the revised targets established in 1987 might have seemed possible, though ambitious, when the targets were established. As the performance of the economy fell below expectations and the costs of programs such as Medicaid and Medicare increased above projections, however, it became clear that there was virtually no way to reach the targets. This encouraged the reliance on rosy scenarios and other budget gimmicks that gave the appearance of compliance. The BEA is more credible than Gramm-Rudman-Hollings because it promises only to prevent legislative changes that would diminish the deficit reduction put in place as a result of the 1990 budget agreement. Unlike Gramm-Rudman-Hollings, these sequestrations apply only to deficit increases caused by legislative actions, and such actions are unlikely to increase the deficit in any year by the very large amounts that can result from changes in the economy or technical factors.

### **III. Budget Reform Proposals Focusing on Budget Targets**

Many people continue to focus on enacting changes to the budget process that are intended to force actions to reduce spending and the deficit. These include updated versions of Gramm-Rudman procedures that would establish fixed deficit targets in statute. They also include other types of proposals that would set overall budget targets (such as a constitutional amendment to require a balanced budget), as well as statutory caps to limit the level or growth of mandatory or discretionary spending.

#### **A. Balanced Budget Amendment and Other Overall Budget Targets**

One of the most popular proposed reforms of the budget process would amend the Constitution to require a balanced budget. Proponents suggest that if the Constitution requires a balanced budget, policymakers will be provided political cover for the difficult actions necessary if the deficit is to be reduced. But a balanced budget amendment is just like Gramm-Rudman-Hollings in an important respect--that is, it sets an annual target (of zero) for the size of the deficit, but does



not specify either the policy actions that are necessary to reach the target or a process for enforcing those actions.

In fact, opponents maintain that a balanced budget amendment would lead to several problems. First, there is no consensus on what the budget to be balanced under such a strict rule should include, or on how to measure conformity with the balanced budget rule. Further, a balanced budget amendment lacks credibility because it interferes with the ability of the federal government to combat recessions through automatic stabilizers or discretionary fiscal policy. Most important, a balanced budget rule offers too many opportunities to evade its requirements. The President and the Congress could get around an apparently rigid balanced budget constraint by using timing mechanisms and other budgetary gimmicks to achieve short-run budget targets; basing the budget on overly optimistic economic assumptions; creating off-budget agencies that would have authority to borrow and to spend but whose transactions would not be directly recorded in the budget; and passing costly spending on to states and local governments (through mandates) or private businesses (through regulations).

A balanced budget amendment, if it were to work, would need to be accompanied by legislation that specified particular actions to reduce the deficit and how they would be enforced. The deficit cannot be brought down without making these decisions to cut specific programs and raise particular taxes. In short, a balanced budget amendment is not a substitute for a balanced budget plan, which would still be necessary even if the amendment were passed and ratified by the necessary three-fourths of the states.

Other proposals of this variety do not focus on prohibiting budget deficits, but on limiting the level or growth of revenue, spending, or debt. Some of these, for example, would limit them as a percentage of Gross Domestic Product. They share with the balanced budget amendment the characteristic of attempting to set some limitation in advance in order to force actions to meet that target.

#### B. Caps on Mandatory or Discretionary Spending

During the 102nd Congress, the Bush Administration and various Members supported the concept of placing an enforceable cap on mandatory spending. More than half of all federal spending consists of spending on entitlements and other mandatory spending. Mandatory spending has been growing much more rapidly than discretionary spending. A mandatory cap would tie the growth of spending for individual programs to the increase in the eligible population and inflation, plus a transitional percentage that would allow the change to be phased in. It would also establish a sequestration procedure to enforce a breach of that cap. Savings would be achieved if spending were held to the cap level, because the costs of some programs, notably Medicare and Medicaid, are estimated to grow much faster than their beneficiary populations and general inflation.



Many advocates of this approach do not accompany the call for a mandatory cap with policy proposals to achieve the reductions in individual programs that are needed to avoid sequestration. Because even most supporters of a mandatory cap agree that an across-the-board sequestration is not an acceptable way to achieve the desired reduction in mandatory spending, however, the cap is likely to be met only if such specific policy changes are enacted. The most important of these would be policies that would control the long-term growth in health care costs, which represent the fastest growing part of the budget.

If policy actions were not taken, a sequestration of mandatory programs could not be carried out easily. Government benefit checks and other mandatory spending cannot simply stop flowing after the cap is reached without disrupting, and possibly endangering, the lives of millions of citizens. Agencies in the executive branch could estimate the likely shortfall resulting from the cap and adjust all future payments to account for the effect of the limit, but that would involve an enormous amount of bureaucratic discretion and uncertainty about the benefits that will actually be provided. In any case, the courts may be asked to respond to the conflict between the legislation that authorized the mandatory spending and a sequestration of that spending.

Caps on discretionary spending, of course, have been used to set targets for discretionary budget authority and outlays under the Budget Enforcement Act (BEA). Setting caps that are supposed to ensure future discretionary savings may seem to run counter to the argument that the budget process is not good at forcing future agreements on specific cuts. But the very fact that discretionary spending is annually appropriated is what makes the caps work. Because mandatory spending and taxes are based on permanent law, the President and the Congress can avoid making promised future cuts simply by failing to take action. But appropriators must act every year in order to provide funding for discretionary programs. They cannot evade the caps by simply failing to act. Instead of the caps being a device to force future actions, they are mechanisms that limit future actions.

### III. Conclusion

A review of past experience indicates that efforts to reduce the federal budget deficit are most likely to be successful if the President and the Congress first agree on policy actions and then set up processes to enforce them: deficit reduction does not work as well if the process changes precede the policy actions. For example, both Gramm-Rudman-Hollings and the proposed balanced budget amendment and mandatory cap try to force agreement on specific deficit-reducing actions. Since processes are not as good at forcing agreements as they are at enforcing them, however, it is questionable whether reforms of this type would have any real effect on the federal deficit.

### Timing of Budgetary Actions

The annual review of the budget poses a dilemma for Congress. On the one hand, annual review of authorizations and appropriations affords Congress the opportunity to maximize its influence concerning various programs and policies. On the other hand, annual action on these measures, as well as the budget resolution and other budgetary matters such as reconciliation and supplemental appropriations, has consumed an increasing amount of Congress's time in committees and on the floor, and some Members have expressed the concern that this has a negative impact on their ability to perform other functions. Establishing a timetable which allocates sufficient time for all of these actions has been a serious and growing issue for more than a decade.

#### **Proposals for Change**

The requirement that so much budgetary legislation be enacted on an annual basis has led to the complaint that much of it is redundant or even unnecessary, and that it distorts the already heavy workload of Congress. Significant support for some form of biennial budgeting has been the primary expression of this concern, but there are other approaches to addressing this problem. In addition to these questions of timing, broad questions concerning other structural and procedural aspects of Federal budgeting are addressed in separate memos.

##### **A. Establish a biennial budget**

An annual budget cycle depends on the timely enactment of each of its component parts. Delays in enacting authorizations or adopting the budget resolution affect timely action on appropriations bills and reconciliation. By making budgetary decisions for two years at a time, even if only for selected aspects of it, Congress could potentially streamline the process by removing some of its redundancy and reducing the overall budgetary workload.

##### **B. Reestablish a deadline for reporting authorizations**

Reintroduction of a deadline for reporting authorizing legislation has also been considered as a part of some reform agendas. A similar deadline (May 15) was provided for in the Congressional Budget Act of 1974, but was eliminated in the revision of the Act by the Balanced Budget and Emergency Deficit Control Act of 1985. It is proposed as a means to help streamline the congressional workload by providing for the consideration of authorizing legislation and appropriations in two distinct periods.

### C. Establish sunset requirements

Another perceived problem derived from annual consideration of budgetary legislation is that it doesn't provide adequate time for the various components of budgeting and is often conducted in a pro forma manner. By mandating that programs terminate unless Congress takes positive action to reauthorize them within a specified period, sunset legislation could provide the incentive necessary for a thorough review of authorizations.

### Issues Raised by Biennial Budgeting

An annual budget cycle depends on the timely enactment of each of its component parts. Delays in enacting authorizations or adopting the budget resolution affect timely action on appropriations bills or reconciliation. A biennial budget cycle often has been discussed as a possible way to reduce workload and delays, and as a method to streamline the budget process by removing some of its redundancy.

Biennial budgeting can refer to either the budget resolution or to appropriations, or to both. Although most biennial budget calendars provide a separate period for the consideration of authorizations, individual authorizations would not necessarily be required for two year periods. Indeed, authorizations are currently of varying durations from annual to permanent. Instead, by providing a specified period in each biennium for the consideration of authorizations, biennial budget calendars would facilitate their review and enactment.

The more familiar 2-year budget option includes both biennial budget resolutions and biennial appropriations. The biennial budget measures previously reported from the Senate Governmental Affairs Committee (S. 2478 in the 100th Congress (S.Rpt. 100-499) and S. 29 in the 101st Congress (S.Rpt. 101-254)) were of this variety as was S. 1667 in the 102d Congress. The other type, which has become more common in recent years, includes a two-year cycle for the budget resolution only, with appropriations remaining on an annual cycle. H.R. 1676, H.R. 1889, and S. 391, all from the 102d Congress and H.R. 565 for the 103d Congress are all of this variety. Sometimes called a "summit" model, this type is intended to institutionalize the multi-year budget agreements that have been a mainstay of Federal budgeting in recent years.

In terms of timing, biennial budgeting proposals fall into two general categories: those which would simply stretch out the current process to two years, and, more commonly, those which would divide each biennium into a budgetary year (for budget resolutions and appropriations) and a non-budgetary year (for authorizations and oversight). Under either calendar, proponents contend that biennial budgeting would streamline congressional workload, and promote timely

action on the budget, in part by reducing the frequency of possible congressional-presidential conflict.

Opponents, however, point out potential shortcomings to each of these approaches. Simply stretching out deadlines, they contend, would not, by itself, alter past budgetary behavior. The potential for missed target dates attributable to protracted negotiations between the President and Congress, or between the House and Senate would still be present. Opponents of the split session approach maintain that it implies a significant change in congressional behavior since it posits the unlikely prospect that some committees would be virtually dormant every other year. They also point out that a separate session for oversight and authorizations divorced from actual appropriations could lack impact. Overall, they contend that with budgetary decisions expected to last two years, the stakes could be raised to a level that would itself contribute to delays.

One of the chief premises upon which the benefits of biennial budgeting are based is a recognition that much Federal budgeting is incremental in nature, and that there is no need to revisit each and every decision annually. Supporters contend that the institution of a biennial budget cycle would therefore result in not only significant workload savings within Congress, but also greater stability and predictability to facilitate planning by Federal agencies.

The most common concern voiced by critics of biennial budgeting is the reliability of budget projections. Estimates for biennial budgets must take into account actions which are as long as three years in the future. Critics contend that locking agencies into such a lengthy planning horizon would make the system subject not only to misestimates but also to deliberately inflated estimates. Even careful and well intentioned estimates could well prove insufficient to such a task. The result could be a system that is biennial in name only. If off-year adjustments are substantial, the workload savings promised by a biennial cycle could prove illusory.

#### **Issues raised by reintroducing a deadline for committees to report authorizing legislation**

Also proposed as part of a reform agenda, and supported by the House Republican Conference as part of its alternative to the House Rules package, is the reintroduction of a deadline for reporting authorizing legislation. A similar deadline (May 15) was provided for in the Congressional Budget Act of 1974, but was eliminated in the revision of the Act by the Balanced Budget and Emergency Deficit Control Act of 1985.

Supporters contend that this reform could potentially help to streamline the congressional workload by providing for the consideration of authorizing legislation and appropriations in two distinct periods, particularly if current restrictions on the



timing of consideration of appropriations bills were kept. Proponents also assert that by imposing such a deadline early in the year Congress would augment the existing distinction between authorizations and appropriations, as well as reinforce the implicit requirement in House and Senate rules that appropriations be considered prior to appropriations (Rule XXI, clause 2(a) in the House and Rule XVI in the Senate).

Those opposed to this reform point out that this was a part of the budget process from 1975 to 1985, and that it tended to create a bottleneck of legislation that made it difficult to complete floor action on authorizing measures prior to consideration of appropriation bills. They also argue that since House and Senate rules implicitly require authorizations to be considered prior to appropriations, the specifying of a calendar date for reporting authorizations is either superfluous or counter-productive. Limiting the period in which authorizations can come to the floor may have a negative impact on the ability of Congress to enact them, and thereby potentially increase the volume of unauthorized appropriations.

### Issues raised by Sunset Legislation

Many people believe that too many Federal programs operate on automatic pilot; that once established they never die, contributing to waste in the Federal budget. One proposal therefore, is requiring a periodic review of each program. These proposals are generally intended to limit the duration of programs, typically to 10 years, unless Congress takes positive action to reauthorize them. Despite the longer time horizon, such proposals are similar to zero-based budgeting as discussed in the mid and late 1970s. These were intended to require that every dollar of spending for Federal programs be justified annually, rather than allow perpetual programs to be modified by periodic, incremental decisions.

Critics of these reforms argue that 10 years, or any fixed period, is an arbitrary length of time, and that it doesn't guarantee that programs will be addressed in a timely manner, or that they will be thoroughly examined when they are. They point out that experience with zero-based budgeting during the Carter Administration generated a great deal of paperwork, but not much else. Additionally, any sunset process which included a provision for the automatic termination of programs could result in unintended terminations as a consequence of committee inaction or filibuster in the Senate. This would essentially allow a minority to cancel a program that had already been enacted by a majority.

Supporters of these proposals maintain that any fixed duration for programs would be a maximum, and that nothing would prevent Congress from establishing a shorter period for particular programs, or from making interim examinations or judgements. Further, they contend that much of the negative experience with zero-based budgeting was due to the short time horizon. By lengthening the time

horizon, Congress could spread out the process and the workload so that oversight and review would be less likely to be overload the capabilities of Congress.

A more specific issue raised by the enactment of sunset legislation is its application. Should it apply only to the authorizations for specific programs, or should it apply more broadly, to laws establishing Federal Departments or Agencies, to entitlements, to tax expenditures, or even to all laws? If a major goal of sunset legislation is to have budgetary impact, exempting entitlements or tax expenditures would weaken that impact considerably. On the other hand, a broad application may inhibit the ability of Federal entities, or even private sector businesses, to plan adequately.

Also unclear is just what termination of a program under sunset legislation would mean. Under current rules and practices, funds provided for an unauthorized program or agency can be spent, would the same apply under sunset, or would the failure of Congress to reauthorize a program effectively be a limitation on spending?

### Questions

1. Are there situations where authorizations are crowded out by appropriations? Would this be improved by setting aside a period each year when appropriations bills could not be considered? Would this situation be improved by establishing a two-year cycle for appropriations?
2. Is the primary goal of biennial budgeting to assist longer term planning, both in Congress and in agencies which spend Federal funds, or to reduce the congressional workload?
3. Is it equally important to consider two-year budget resolutions and two-year appropriations?
4. Would a two-year budget resolution need stronger enforcement mechanisms?
5. Would a two-year budget resolution need to be a joint resolution in order to more effectively involve the President?
6. How far should the application of sunset legislation go? Should it cover all laws? Should it cover tax laws? Should it cover entitlements? Should it cover only explicit authorizations of appropriations?
7. Should sunset legislation provide for the automatic termination of programs which are not reauthorized? Would sunset legislation without provision for the automatic termination of programs lack the necessary impact to be effective?

## BUDGET COMMITTEE STRUCTURE: SOME OPTIONS FOR CHANGE

The House and Senate Budget Committees were established by the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344). Central to that Act was a concurrent budget resolution, which contains aggregate spending and revenue levels, functional allocations of spending, and (optionally) reconciliation instructions. The two budget committees have responsibility for crafting the budget resolution and monitoring the budgetary effects of legislation.

Some lawmakers and commentators perceive shortcomings in the current budget system, especially its complexity and its time-consuming nature. Some restructuring of budget operations may be in order to achieve greater coherence, more simplification, and time-saving. Four suggestions that involve the Budget Committees are worth noting in this regard: creation of a Joint Budget Committee, recasting the Budget Committees as "leadership panels," returning, in some respects, to the pre-1974 budget era, and enhancing the authority of the budget panels.

### Proposed Changes in Budget Committee Structure

Congressional history reveals that efforts to restructure Congress' committee system are fraught with perils. Jurisdiction means power and influence, and lawmakers are often reluctant to move "turf" around on the theory that committee realignment will promote better policies and policymaking. Hence, proposals to restructure the House and Senate Budget Committees may encounter resistance because of lawmakers' concern about tampering with committees.

#### A. Joint Budget Committee

Certain Members have proposed that Congress establish a Joint Budget Committee to replace separate budget panels in each chamber. This recommendation has the virtues of simplifying the budget process and saving Members' time, because the same concurrent budget resolution would be submitted to each house. As a result, conference committee negotiations on the budget resolution may be expedited as the bicameral negotiating panels deal with discrete floor amendments in bicameral disagreement rather than two separate budget packages. In short, a Joint Budget Committee may expedite Congress' ability to get a budget resolution adopted in a timely manner.

Another advantage that might be associated with a Joint Budget Committee is its "elite" membership. To be sure, questions about the size and composition of the Joint Committee will have to be worked out. But if the joint

panel was viewed as leadership-oriented, then its power and influence could be maximized with the result that the Joint Committee might more easily enforce the budget resolution.

Finally, a Joint Budget Committee might augment Congress' fiscal influence in dealing with the executive branch as more House-Senate cooperation strengthens the legislative branch's bargaining opportunities with the executive. At a minimum, a Joint Budget Committee would reduce duplicative hearings and redundant staff work and briefings.

Some disadvantages may be associated with the Joint Budget Committee idea. If the membership of the panel is skewed toward representatives of the tax and appropriations panel, then clashes with authorizers might be exacerbated. Another potential problem involves House-Senate differences. The two chambers are fundamentally unlike in many respects: customs, rules, and procedures, for example. The House and Senate, too, are subject to different electoral time frames and exhibit differences in the capacity of their membership to be policy specialists or policy generalists. These and other types of dissimilarities, which can produce friction between the chambers, may make more difficult the work of a Joint Budget Committee.

#### B. Reconstitute the Budget Panels as "Leadership Committees"

Party leaders are fundamental actors in contemporary budgeting. They influence who is assigned to the budget panels, (the Majority Leader and Minority Leader in the House are ex officio members of the Budget Committee), monitor fiscal activities, and mobilize winning coalitions on the floor. It may be time to formally recognize what lawmakers informally understand: in this era of fiscal austerity and concern about national priorities, budgeting is central to the influence of party leaders. In brief, it may be worth granting the Speaker and House Minority Leader and the Majority Leader and the Minority Leader of the Senate the right to name the leaders and members of the two budget committees, subject to caucus or conference approval.

From its inception, the House Budget Committee has been more partisan than its Senate counterpart. Part of the explanation for this difference involves the ideological composition of the House panel compared to the Senate panel. (The House panel also operates with a rotational principle, 6-year limit of service, and with representation from other named standing committees. The Senate Budget Committee is a permanent assignment for Senators.) During its early history, the two panels largely accommodated the fiscal requests of other standing committees. Perhaps the newness of the budget process encouraged this general attitude.



By the 1980s, however, budget-making became significantly "top down" in both Congress and the White House. As the deficit grew in size so, too, did the authority of the Budget Committees and party leaders. And as partisan conflict grew sharper in both the House and Senate, the role of party leaders became even more important in assembling coalitions and establishing policy priorities.

What these new developments suggest is that the Budget Committees might be recast as "leadership committees." The change would focus budget control in the leadership and make the entire budget-making process more accountable to the public. Another result would be to strengthen the Budget Committees' capacity to negotiate fiscal trade-offs and to employ reconciliation (directing other committees to make revenue and spending savings) in a more coordinative manner. On the other hand, these "leadership panels" might become so fractious and partisan that little advantage would flow from this change.

### C. The Pre-1974 Period, With Exceptions

Many factors accounted for enactment of the 1974 Budget Act, but the lack on Congress' part of having the capacity to take a big picture look at budgetary actions--relating revenues to expenditures, for example--was among the most important. Congress moved from a piecemeal and haphazard process to one with greater coherence, coordination, and information.

Probably no one wants to go back to the budgetary deficiencies identified with the pre-1974 period. Instead, the concern for some today is multiple budgets: the President's and Congress'. Confusion often occurs with two budgets in part because people can select various economic assumptions and numbers to explain an action. Public understanding and accountability is attenuated by this situation. One suggestion to remedy the problem: restore presidential leadership and responsibility for the national budget, which was the case pre-1974, by eliminating budget resolutions.

Drafting budget resolutions are the prime responsibility of the two Budget Committees. The elimination of budget resolutions suggests that the functions of the budget panels could be merged with one or more committees in either chamber or with joint committees. Some other panel(s), in short, would provide an overview of the national budget (aggregate levels of spending and revenue, for instance), because lawmakers are likely to want that and related fiscal information. To be sure, without budget resolutions specifying aggregate levels of revenue and spending, lawmakers would probably want to acquire that and related information from some other legislative entity. Members, in brief, want an overview of the national budget. On the other hand, eliminating budget resolutions need not mean elimination of the budget panels. They could still

function to monitor spending decisions, conduct scorekeeping, direct the reconciliation process, and oversee the Congressional Budget Office.

#### D. Enhance the Authority of the Budget Committee

Given the significant role of the Budget Committees in promoting coordination and integration in Congress' fiscal decision-making, it may be time to equip the two panels with broader authority over budgetary procedures. For example, if Congress established a joint budget resolution, the Budget Committees would have major responsibility for negotiating aggregate spending, revenue, and deficit targets with the President. No doubt this change would trigger earlier bargaining between Congress and the White House over budgetary totals and involve the President and Budget Committee leaders more heavily in enforcement (committee allocations, e.g.) of the budget process as it unfolds over the course of a fiscal year.

The role of the budget panels also might be strengthened in the reconciliation process. For example, the budget panels might be given broader authority in reconciliation instructions to suggest specific changes in spending and revenue programs. Further, the budget panels might be permitted to prepare substitutes if standing committees fail to meet the targets set forth in the reconciliation instructions.

#### Suggested Questions

1. On the matter of a joint budget committee, isn't there a possibility that if authorizers are not adequately represented on this important new panel that it could produce even more tension between appropriators and authorizers? How can we keep the size of this panel within reasonable limits so it can accomplish its work with reasonable dispatch?
2. The Budget Committees are among the panels on Capitol Hill that try to extend Congress' traditional short-term focus into longer-term planning. Consistent with its role, what more can be done by the Budget Committees to promote multiyear thinking in the budgetary area?
3. The Budget Committees were established as an overlay to the existing authorization-appropriations process. If the two panels are granted more authority, could this promote more jurisdictional strife among the various fiscal committees?

4. People often talk about the pre-1974 budgetary era as haphazard and piecemeal. Were there any virtues in this "old" process (2 layers rather than 3, for example) that might be revisited in the context of today's fiscal decisionmaking?
5. If leadership influence over the budget panels is enhanced, is there any worry that the budget panels might be embroiled even deeper in partisan division?

### Joint Resolution on the Budget

The Congressional Budget Act of 1974, as amended, establishes a budget process through which the House and Senate can coordinate the various legislative actions effecting Federal budget policy. This process is centered around a concurrent resolution on the budget--the budget resolution--which provides a framework for balancing the disparate decisions made each year about revenues, spending and other budget-related matters (such as limitation on the public debt). The budget resolution sets (currently for the next five fiscal years) total new budget authority and outlays, the size of the deficit, and other budget aggregates, as well as spending and credit amounts for each functional category of the budget. The budget resolution also initiates reconciliation, the process used by Congress to change existing spending and revenue laws to conform with the various aggregate limitations contained in the budget resolution.

Budgetary policy is a shared responsibility of the executive and legislative branches, and a degree of cooperation between Congress and the President is necessary for significant steps toward deficit reduction and other budgetary goals. Divided government, a lack of "political will," and other factors have been blamed over the past decade for the regular impasses that occurred on the budget. Some Members of Congress and outside observers have also argued that budget procedures are at least partially responsible because they provide incentives for the executive and legislative branches not to cooperate in the initial formulation of budgetary policy.

Part of the problem may be the nature of the budget resolution. As a concurrent resolution, rather than a joint resolution or a bill, the budget resolution is not a law and does not require the President's signature. With split partisan control of Congress and the White House, from 1981-1992 the two branches typically proceeded independent of one another in the early stages of budget decision making, delaying or even fostering conflict in succeeding stages of the budget process when implementing legislation must be signed by the President. As a result, proposals have been made to make the budget resolution a joint resolution. The purpose of this memo is to describe the potential implications of such a change on (1) deliberations about budget policy; (2) the power of Congress relative to the executive branch; and (3) the enforcement of budget agreements.

### **Background**

The impact of a joint budgetary resolution would depend in part on who controls Congress and the White House. Under divided government, some fear that making the budget resolution a law might lead to partisan gridlock on the budget earlier in the process. With a concurrent resolution on the budget, the



two branches can operate independently at the planning stage. The President submits his budget to Congress, and Congress passes its own budgetary goals in a concurrent resolution which does not require the President's signature. However, the two branches are forced to confront each other later in the process over reconciliation, appropriations bills, and the other legislative items that implement the actual outcome of the congressional budget process.

Under unified partisan control, the impact of making the budget resolution a joint resolution would depend on how much consensus exists within the majority party about budgetary priorities. When there is substantial agreement between the President and the congressional majority, the primary impact of a joint resolution may be to institutionalize negotiations and cooperation that would have occurred anyway. In contrast, if conflict exists over budgetary priorities between the President and his fellow partisans in Congress, adoption of a joint budget resolution would require that the two branches confront this disagreement early in the budget process, rather than later when implementing legislation is considered.

In short, whether partisan control of the government is divided or unified, cooperation between the branches on the budget is necessary at some stage of the process. Even under conditions of divided government the question is not whether the Congress and the President must bargain over budget policy, but when.

### Timing and Quality of Deliberations

Proponents of the joint budget resolution argue that it would enhance the dialogue about budget priorities and make it easier for the public to apportion responsibility for budget outcomes. Proponents argue that under the current system, while early agreements are always possible, the parties are not compelled to engage in real bargaining until late in the process. In contrast, requiring that the President sign the budget resolution could force the key actors to confront their disagreements early on in the process. Clearly one result might be an early veto and an impasse between the branches. But proponents of the joint resolution approach argue that, under these conditions, an impasse would have emerged eventually anyway, and it is advantageous to face such difficulties early on. A joint resolution also would make more clear that budgeting is a shared responsibility and that the blame for gridlock should be shared.

Opponents of the joint budget resolution argue that it would not enhance deliberation or inter-branch cooperation. First, negotiations on the budget often do not begin early in the year because of the complexity of the issues. In general, the timing and quality of negotiations on the budget do not depend on budget procedures, but on the degree of consensus about priorities between the key actors in Congress and the executive branch. If such a consensus exists,

cooperation will emerge whether or not the President is formally a part of the process of devising the budget resolution. If conflict over budget priorities is significant, requiring that the President sign the budget resolution might even make useful dialogue and cooperation more difficult to achieve. The possibility of a veto might lead to heightened political posturing as each branch tries to pin the blame for a budget impasse on the other.

Another concern is that although a joint resolution would force Congress and the President to agree on the aggregate level of spending and revenues, it might not force them to confront specific policy disagreements. A joint budget resolution which allowed Congress and the President to avoid or delay negotiating individual policy questions would not necessarily enhance the quality or speed of later deliberations.

### **The Power of Congress Relative to the Executive Branch**

In general, arguments in favor of a joint budget resolution posit that Congress would not be materially disadvantaged by allowing the President to be directly involved in negotiating the budget resolution. Therefore, if it would do no harm, even marginal improvements in either the character or timing of presidential/congressional agreement on the budget would be worthwhile.

Opposition to having the budget resolution enacted into law is generally rooted in the belief that it would compromise Congress's ability to express its policy preferences independent of the President's. Supporters of joint budget resolutions point out that Congress could still pass a budget resolution that was at odds with presidential preferences, just as the President could still submit a budget proposal that was "dead on arrival." In either case, the mandate to enact a budget resolution would not preclude either side staking out a position wholly unacceptable to the other as a position during the negotiation. More likely to be important in such a situation would be the potential for delay. Under current rules the House may not consider appropriations bills until after the budget resolution is adopted or May 15, whichever comes first, and the Senate may not consider them until after the budget resolution is adopted. Delays in negotiating a budget resolution acceptable to all parties therefore could also cause delays in the consideration of legislation necessary to implement it.

Despite this argument, the view persists that by giving the President the opportunity to veto something he does not now have the ability to veto would inherently undermine the position of Congress. Supporters contend that since the budget resolution must be implemented through enactment of public laws (which could be vetoed) granting the President the ability to veto the plan does not grant him any real additional power.

Opponents point out, however, that perceptions can be as powerful as reality, and that the question of negative perceptions may be as important as whether or not Congress would be materially disadvantaged. Perception by the public that involving the President meant Congress could not formulate budget plans on its own, or that a vetoed budget resolution represented an irresponsible Congress being "reigned in" by the President, rather than simply a negotiating ploy, could be problematic and difficult to explain.

### **Enforcement of Budget Agreements**

Some have suggested that making the budget resolution into a law would add rhetorical weight to enforcement questions, but have little, if any, practical effect. This argument is built on the assumption that current enforcement provisions, based on chamber rules and procedural points of order, would continue to be sufficient. To the extent that violation of the terms of a joint budget resolution involved such procedural issues they would presumably be under each chamber's rulemaking authority, and therefore not require any different enforcement mechanism than is currently the case. In addition, subsequent enactment of implementing legislation would effectively supersede any conflicting provisions in a joint budget resolution.

Such arguments are also implicitly based on the idea that the format and content of budget resolutions will remain the same. It is likely, however, that what information would be presented in statutory language or in report language, and the effect of its relative placement, would become an issue, as would the possibility of additional enforcement mechanisms. The Budget Enforcement Act of 1990 is often used as an example of involving the President in negotiations about budgetary aggregates. The Budget Enforcement Act, however, also established enforcement mechanisms to ensure compliance. Enacting similar mechanisms (i.e., spending caps, pay-as-you-go) to enforce statutory budget resolutions should not be overlooked. Indeed the availability of such mechanisms could be considered an incentive (either positive or negative) for the making the budget resolution a public law.

## Questions

1. In your opinion, what advantage would Congress derive from having the President sign the budget resolution? What advantage would the President derive?
2. Would a joint budget resolution which focused entirely on budget aggregates gloss over presidential-congressional differences in specific policy areas?
3. Should a joint budget resolution have the same format that budget resolutions do currently? What information should be excluded or new information included to make it more effective?
4. Should Congress adopt new mechanisms for enforcing a joint budget resolution? Would such changes be necessary to make a joint budget resolution effective?



### What Should Be Included in the Federal Budget?

There is no single correct way to determine the dividing line between the activities included in the federal budget and those excluded. As a result, disagreements exist over budget coverage. For example, some critics argue that programs currently in the budget have characteristics (such as special financing sources) which should preclude their inclusion in the budget. Others claim that government policies currently not recorded in the budget, but which allocate non-federal resources (such as regulation), should be in the budget.

#### **I. Current Coverage of the Budget**

The federal budget is intended to comprehensively cover the federal government's cash flows. The objective of comprehensive coverage in large part resulted from the President Johnson's 1967 Commission on Budget Concepts which recommended that agencies owned or controlled by the federal government should, with rare exception, be included in the budget. The Commission supported comprehensive coverage because: (1) having more than a single, comprehensive budget and a single unified, budget total (deficit or surplus) led to confusion in the public and among decision makers, (2) comprehensive budget coverage allows policy makers and analysts to better understand how government spending and revenue collection affects the economy and (3) government resource allocation would be improved if all government programs were included in the budget and were subject to and controlled by the budget process.

To be comprehensive, the budget records all cash flows resulting from the government's collection and disbursement of money (i.e., these are "on budget") unless they are legally excluded. The on-budget deficit/surplus is calculated by totaling the government's annual cash outflows and inflows resulting from on-budget programs. Cash flows resulting from the transactions of Social Security (the OASDI trust fund) and the Postal Service (and Part A of Medicare starting in 1993) are legally "off-budget". That is, these programs meet the criteria for being on-budget but are legally prevented from being included in the on-budget deficit/surplus.

Many financial flows which support government activity are not included in the budget. This means that even if the budget contains information on the financial performance of non-federal or off-budget programs, they do not figure into the calculation of the federal government's deficit. These include borrowing and repayment of debt, certain types of credit accounts, and agencies like the Financing Corporation and the Resolution Funding Corporation (which funded part of the savings and loan bailout). In addition, transactions of government sponsored enterprises (such as Fannie Mae, Freddie Mac, and Sallie Mae) and the Federal

Reserve System are not included in the budget since these agencies are not owned or controlled by the federal government.

Furthermore, there are numerous programs which receive federal funds, such as AMTRAK, the Corporation for Public Broadcasting, and the Legal Services Corporation whose financial activities are not considered part of the government and are thus, not covered by budgetary reporting.

## II. Proposed Changes In Coverage

Current practice is not embraced by everyone. Many proposals have arisen to change the composition of the budget, in three ways. First, by excluding activities that are currently part of the budget, including trust funds and business operations. Second, by adding activities that are not presently considered budgetary, including government-sponsored enterprises, regulatory and mandate activities, and tax expenditures. Third, by switching from a focus on a single budget to focusing on multiple budgets representing different types of federal activities. Six proposed changes in the makeup of the budget are discussed below.

### A. Place Trust Funds Off-Budget

In general (Social Security and part of medicare are notable exceptions), federal trust funds are on-budget. Some argue that trust funds are not regular parts of the government and should be put off-budget because: (1) the funds are financed by revenues which are specifically earmarked and are not transferable to other uses, (2) the monies in the funds are being held in trust for beneficiaries and do not belong to the government (3) including these funds in the budget clouds the true causes and size of the budget deficit, (4) the intent of Congress was to make these fund autonomous from the annual budget process.

Supporters of retaining trust funds in the budget oppose any movement to exclude trust funds arguing that: (1) not including the activities of these funds (which spent more than \$500 billion in 1992) inaccurately depicts the government's role in the economy and its drain on the credit markets, (2) these programs are completely controlled by the federal government and are governmental activities, (3) these program's assets are, in fact, IOUs from the taxpayer; financing these programs relies on the same source of funds which supports all other government programs and (4) putting trust funds off-budget puts them on favored political footing. In recognition of the importance of including trust fund activity in the deficit, legislation to lower the budget deficit (such as Gramm-Rudman-Hollings) used deficit figures including social security in its targets (although in 1994 the deficit target will be the on-budget deficit). Likewise, OMB and CBO continue to stress the total deficit figure.

### B. Put all "Business Operations" Off-budget

A variety of "business-type" programs are run by the government. Some of these programs, such as the Tennessee Valley Authority and the St. Lawrence Seaway, engage in direct commercial activity with the general public. Others, such as the General Service Administration, function more along traditional government contracting and internal government procurement roles. The programs are accounted for in the budget in revolving funds which allow expenditures to be offset by collections. These net figures are included in the deficit/surplus. Critics of this current treatment argue that: (1) including business type revenues in the budget distorts the budget figures by commingling revenues collected from taxation and revenues derived from voluntary transactions between the public and business type agencies and (2) subjecting business type operations to budget constraints hinders their ability to support themselves.

Labeling a government program a business operations, some say, has little do with the actual functioning of the agency. They argue that if such programs were true business operations they would have become private long ago. Moreover, if the program is controlled by the government and funded by the taxpayer, then it belongs in the budget. If government programs are excluded from the budget, then the budget will not be able to inform Congress as to government's macro economic effects, nor will it serve as a means to allocate resources over all federal programs.

### C. Put GSEs On-Budget

Although government sponsored enterprises (GSEs) are privately owned and managed, they have an "implicit" federal guarantee. Financial markets believe that if a GSE encountered financial difficulty, the federal government would take over responsibility for its financial obligations. In addition, the GSEs have special tax privileges, government oversight and federal sponsorship. As a result, some argue that the GSE's financial activities should be reported in the budget. They support their argument by noting that in the past, a GSE in poor financial shape (the Farm Credit System) was bailed out by the federal government.

Others argue that GSEs should not be in the budget because the budget should only record activities of government entities. If so, it is argued that GSEs, which are clearly privately owned, should remain off-budget regardless of the perception of financial markets. If inclusion in the federal budget was simply a matter of the potential for receiving federal funds, they claim, then other private firms (such as Chrysler, which has received government bail-outs in the past) would become part of the federal budget.

#### D. Record the Cost of Federal Activity on Non-federal Entities

Currently, federal regulation and mandates have zero budgetary costs to the federal government since the resources allocated by the private sector and state and local governments to meet these laws and rules are not included in the budget. But regulations and mandates clearly have real economic costs, and many believe the current level of regulation and mandates is "too high" and restricts economic growth. In part, this "overuse" of regulation is attributed to an absence of a recognized budgetary cost for regulation and mandates. Moreover, with budgetary constraints tightening, the incentive to shift costs from the federal government to private industry and state and local governments will grow. They suggest that by ignoring regulatory and mandate related costs, the budget grossly understates the economic effect of the federal government on the economy and leads to inefficient resource allocation as more and more "free" regulation and mandates are passed.

If the federal budget is to be a comprehensive statement of all federal activities which consume economic resources, these critics charge that it must include resources allocated by regulation and mandates. They argue that the budget should, at a minimum, record the amount of non-federal resources which are used as a result of mandates and regulation. Some go so far as to suggest establishing a budgeting process for these costs.

While there is agreement that regulation and mandates use up real economic resources, others do not believe that these costs should be included in the budget, for three reasons. First, it is too difficult to measure the cost of regulation or a mandate since the resources are not spent by the federal government but by a huge number of private or governmental entities who have their own accounting systems, may not identify these costs, or have an incentive to provide incorrect data to the federal government. Second, it is almost impossible to compare estimates of costs with actual spending for some regulation or mandates as costs may arise not from an action, but from the prevention of some action (for example, a firm not building a new plant because of the cost of regulation). Finally, the federal budget is intended to show the use of federal resources. All economic resources do not, de facto, belong to the federal government and the budget should reflect that fact by only showing federal transactions.

#### E. Include "Tax Expenditures" in the Budget

The federal tax code provides for a variety of exclusions from taxation through provisions which exempt particular activities. Some argue that such tax breaks are substitutes for federal spending and should be recorded as such in the budget. They claim that by not being comprehensive, the current budget process allows Congress to reduce government revenues without being charged for the policy. Additionally, they believe that inclusion of tax expenditures in the budget would better reflect the size and composition of Federal taxing and spending.



Those who do not want to include tax expenditures in the budget argue that the failure to receive revenue (by giving tax preferences) is different from collecting revenue and then disbursing it. They argue, for example, that the entire concept of a tax expenditure assumes that the failure to tax represents a "cost" to the government, implying that the government "owns" private resources. Moreover, they believe including tax expenditures in the budget would set an unworkable precedent--they feel there is virtually no end to what might be defined as implicit spending.

#### F. Move From a Unified Budget to Multiple Budgets

Arguments about budget coverage often focus on moving programs from on-budget to off-budget. A significantly more expansive change would be to establish more than a single comprehensive budget. For example, there could be four budgets: one for trust funds, one for business-type operations, one for investments, and one for government operations. Supporters of such a plan argue that it would: (1) focus attention in the budget process on the "like" programs instead of comparing different types of spending (e.g. consumption and investment or programs funded by earmarked taxes and programs funded by general taxes) as is done in the current budget, (2) focus attention on the "operating deficit", which some believe is the deficit which requires balancing, instead of the comprehensive deficit, which they argue is a misleading figure, (3) recognize that not all programs are clearly part of the government and (4) recognize that no single, summary financial measure can answer all important questions about government policy.

Supporters of continuing with a single budget argue that having many budgets has led, historically, to confusion as to (1) how government budgetary policy affects the economy and (2) how resources should be allocated across government programs. Moving to multiple budgets, they argue, would obscure the true size of government and limit understanding of the effect of government action. Without a unified budget, the budget would no longer serve, it is suggested, as a tool to plan or analyze government financial policy.

#### **Questions**

1. Why should trust funds be included in the budget, when they are self-financing?
2. Shouldn't the mandates and regulations that the federal government places on others (such as state and local governments and private businesses) be included in the budget?
3. A concern has been raised that government-sponsored enterprises (GSEs) may present a huge contingent liability for the federal government. Does this mean that GSEs should be included in the budget?

4. The current "unified budget" assumes that all federal expenditures are created equal. Isn't some restructuring of the budget (for example, into trust funds, business activities, investment, and operations) in order?

What Budget Reforms Might Provide More Accurate  
Information or Better Incentives to Policymakers?

The federal budget includes many different types of activities. Many people believe that if policymakers were provided with more accurate information about the cost of various activities (or if incentives for acting in the long-term financial interest of the government were improved), that budget outcomes will be improved. This type of argument encompasses two different types of reforms. The first is proposed by those who advocate changing budgetary accounting to depict more accurately the economic cost of transactions. The second come from those who advocate providing more or different information in the budget without any budgetary accounting changes, with the goal in encouraging policymakers to use that information in a way that is consistent with the public interest.

### **I. Reforms of Budgetary Accounting**

The budget generally uses a cash-basis of accounting. Cash-basis means that cash flows are measured in the budget when they are received or paid out by the government. The primary rationale for cash-basis accounting, as offered by its supporters, is its clear measurement basis and its consistency. Using cash-basis accounting prevents the government from claiming that a disbursement of funds is not, in fact, an outlay. Similarly, cash-basis budgeting prevents the government from claiming it has received revenues when no money has actually come into the Treasury. Cash-basis accounting has been used by the U.S. since the republic's founding, and any movement away from cash-basis accounting would require development of new accounting concepts and would move budgetary accounting systems further away from the measurement of a tangible object.

Despite its clear measurability and simplicity, the cash-basis system has been found lacking in several areas. First, interest on the public debt is measured on an accrual basis. That is, interest is counted as an outlay of the government as it accrues rather than as it is paid to debt-holders. For example, a savings bond holder does not receive cash payment until the bond is redeemed but the budget shows the expenditure as the interest accumulates.

For another example, the treatment of credit transactions (i.e. Federal direct loans and loan guarantees) was moved away from a cash basis by the Credit Reform Act of 1990. Cash basis accounting was thought to create a bias in the budget in favor of loan guarantees and against direct loans, since a direct loan program appeared to be much more costly in the first year than an identical loan guarantee program. To address the budgetary misinformation produced under a cash-basis system, the Federal Credit Reform Act substitutes as an outlay the present value of the expected loss to the government for issuing the guarantee or the loan in place of the cash disbursement or receipt. The primary benefits of this change are to

make direct loans and loan guarantee costs more comparable, and to record costs in the budget at a point when they can be controlled by policymakers.

The perceived distortions in current federal accounting have led to some suggestions to reform it, mainly by changing the budgetary treatment of certain federal programs. These include such suggestions as creating a separate capital or investment budget, accounting for certain programs which result in contingent liabilities for the federal government on an accrual basis, or changing budgetary accounting for property and real estate transfers.

#### A. Capital Budgeting

Current budgetary accounting does not distinguish between funds spent on investment, which create future benefits, and funds spent on consumption, which creates benefits in the present. Some argue that the budget should record the cost of investing over the life of the investment. For example, if a bridge lasts 30 years, the cost of the bridge should be recognized as the bridge confers benefits over time instead of as the cash needed to build the bridge is spent.

Supporters of this accounting treatment for investment suggest that the current cash treatment leads to a bias against federal investment. In their view, investment appears very "expensive", relative to consumption, as its full cost is recognized in the budget in the first year, even though it will provide benefits for years into the future. They also argue that using cash-basis budgeting to account for investment leads to the wrong measure of the deficit. In particular, critics claim that the current deficit figure is used as a proxy for government consumption spending that is not financed by taxes even though it clearly has an investment component in it. Measuring the cost of investment over the life-time of the investment, it is argued, would more accurately indicate how much private savings the government consumes.

Opponents of capital budgeting argue that the budget should recognize the full cost of a decision to spend at the time of the decision. As it is, they suggest, the government does not have the same restraints on its borrowing (such as limits imposed by lenders who fear borrower default) which limit the borrowing and spending of all entities other than the federal government. They believe cash-basis accounting appropriately forces the government to face the cost of programs when the decision to create the program is made.

They also believe that it will be impossible to determine which federal programs are investment and which are consumption. They claim that supporters of government programs will argue that the program they support is investment since by doing so, it will receive beneficial budgetary accounting. As a result, they fear many consumption programs will be miscategorized as investment. These critics also claim it will be nearly impossible to determine the time period over



which the costs of investments should be spread. Since programs which last longer will be cheaper in each year, they believe that many programs will be said to last longer than they really do.

#### B. Budgeting for Insurance and Other Contingent Liabilities on an Accrual Basis

The government provides insurance against a variety of risks. The two largest insurance programs are deposit insurance (insuring depositors against financial institution failure) and pension insurance (insuring pensioners against the failure of a plan sponsor to pay pensions). Accounting for the cost of these programs when cash is paid to the insured, critics claim, does not accurately reflect the cost of the program when the costs are actual occurring. In fact, the current cash flow of an insurance program could be positive even though the program is taking on losses, to be paid in the future, exceeding its assets. For example, the federal pension insurer has accumulated losses of \$2.5 billion but last year reduced the federal deficit by over \$700 million (as its cash in-flow exceeded its cash out-flows by over \$700 million).

Critics of cash accounting suggest that this system allowed the government to ignore the mounting losses of deposit insurance because the actual cash payments to depositors were not going to be made until the future. By the time the budget began to record the payments to the insured, there was no way to prevent paying on the losses which had already accumulated. Thus, cash-basis accounting leaves the government no option, they argue, but to pay bills. These critics offer alternatives to cash-basis budgeting. They suggest the credit reform model could be used for insurance programs whereby estimates of future losses, which would be used as outlays, could be made when the insurance is provided. Alternatively, the assumption of liabilities in excess of assets by the government insurance company could be recorded in the budget. Such estimates, they believe, can be made using currently available estimating tools.

Opponents of moving from cash-basis budgeting believe that: (1) a non-cash basis of budgeting for insurance will allow the budget to be "gimmicked" to meet political goals as insurance costs would be based on estimates and not actual cash flows, (2) the technical procedures required to estimate future insurance losses, based on today's actions by the insurer, are not reliable enough to be included in the budget, (3) the cost of developing non-cash measurements is far greater than any benefits that can be provided and (4) measures of the cost of providing insurance are already available to Congress in non-budgetary related documentation.

### C. Transfer and Barter of Government Property

Several government agencies have the power to exchange non-cash assets for goods or services of non-Federal entities or to satisfy claims on the Federal government. Critics of these transactions believe that they may allow the government to provide government subsidies to those receiving the property. In the most extreme case, property may actually be "bartered" in a manner tantamount to conveying property. They argue that such transactions should be accounted for as if the transmission of property were an outlay of cash because not treating these transactions as cash: (1) allows government programs to evade the discipline and scrutiny of the budget process, (2) obscures government policy from the public and policy makers, (3) reduces the effectiveness of the budget as a tool to determine the effect of government policy on the economy.

Supporters of barter transactions claim that non-cash transactions are not cash and thus, should not be treated as cash. They also suggest that many barter transactions are for mutual convenience of the federal government and other entities and leave both parties as well off as they were before the transactions.

## **II. Reforms that Would Change Information Without Changing Budgetary Accounting**

Changing budgetary accounting is not the only way to influence budgetary decisions. Policymakers also respond to the information that is provided to them when they are making resource allocation decisions. For this reason, several reforms have also been suggested that would provide supplemental information to decision-makers when they consider the budget. In all cases, these are intended to focus attention on some perceived problem that is ignored or minimized by the current process. Three specific examples of this are generational accounting (which accounts for the impact of the budget on different generations), GDP budgeting (which focuses its attention on the effect of policies on the economy) and performance budgeting (in which policymakers are urged to pay closer attention to the relationship between resources and program outcomes).

### A. Generational Accounting

The current budget accounting informs policy makers as to current inflows and outflows of cash but does not inform them as to the intergenerational effects of policy. For example, it does not let policy makers know how much the current generation will receive in government benefits relative to how much it will pay to government. A system of accounting, called generational accounting, would provide policy makers an assessment of how government spending and revenues are allocated across generations. Supporters of this type of accounting for government

spending argue that the current cash-basis accounting is static and captures only a snap shot of the effects government policies have on citizens for a single year. The more relevant measures, they claim, focus on the longer term effects of government spending and revenue collections.

Generational accounts were produced as supplements in the President's budget of 1992 without requiring the current accounting be dropped. Current procedures for generational accounting have tremendous measurement problems, such as measuring the costs and benefits of military spending and are thus, highly unreliable. Finally, they believe that generational accounting may embody unrealistic economic assumptions, such as the ability of the government to levy inescapable taxes.

B. GDP Budgeting. Some economists have argued that the federal budget process is overly concerned about the categorization of financial flows into revenues and spending, to the exclusion of concern of the total effect of federal budget policy and private decisions on the economy. To these observers, the important issue of federal budgeting concerns the impact of policies on the allocation of all resources (public and private), as measured by the Gross Domestic Product. They have advanced proposals to include information on the effect of each proposed policy (which would include changes in tax and spending policy, but also non-budgetary issues, such as federal regulatory activities) on the economy as a whole. Typically they recognize that "GDP budgeting" cannot replace the revenue and spending budget, but they argue that information about how policies affect the economy is currently downplayed in deference to a discussion of how much a given policy "costs" the federal government. For example, GDP budgeting might ask if the government adopts a particular policy, how much the entire economy would spend on health care.

The argument against GDP budgeting largely rests on two points. First, it would be very difficult for the federal government to develop a capacity to measure the effects of all proposed policies. Second, since even the proponents do not argue for changing budgetary accounting, but for increasing the amount of information provided to policymakers, the effect of this change on behavior might be quite limited. These people argue that changing budgetary behavior is most likely to occur if the economic costs of programs were recognized in the budget, not simply through providing more information.

C. Performance Budgeting. Legislation which passed the Senate in the 102nd Congress and has been reintroduced in the 103rd Congress would mandate strategic planning and performance measurement for federal agencies, and would require several pilot projects in agencies, linking performance measurement to the budget

process. Proponents of performance measurement cite its potential to bring about a basic change in the resource allocation process. They envision a system in which dollars are allocated to a much greater degree according to the results that are expected.

This is true, however, only to the extent that this concept was extended to agencies that currently do not measure the results of their activities, and a way could be found to link the measures to budget outcomes. There are limits to the ability of performance measurement efforts to satisfy these two conditions. First, many agencies have already made strides in measuring the results of their activities, rather than only the activities themselves. Thus, the potential for additional improvement may be less than is commonly thought. Second, the connection between performance measures and resource allocation is not straightforward. For example, should "bad" performance lead to additional resources (because past resources were inadequate to meet performance targets) or budget reductions (because resources would be better used elsewhere in the budget)? Past experience with performance-based systems highlight this problem. One view is that past efforts to tie performance to the budget (such as PPBS in the 1960s and zero-based budgeting in the 1970s) failed in part because no one knew how to make this connection.

## Conclusion

Changes in budgetary accounting or in the information provided to decision-makers can change incentives for behavior. As such, they are important. Changes in accounting are probably more significant than informational changes by themselves. Accounting changes force the recognition of costs, while information (even when compelling) is more easily ignored.



### Questions

1. Isn't it true that the budget discriminates against investments? Wouldn't a capital budget help?
2. Wouldn't having a separate capital budget encourage the categorization of even more spending as capital, or investment?
3. If we had budgeted for deposit insurance on an accrual basis, wouldn't we have had much earlier signals on the magnitude of the savings and loan crisis?
4. Aren't we currently redistributing a lot of resources from future generations to current taxpayers, and wouldn't a system like generational accounting provide better signals?
5. Some have suggested that the current budget does not adequately account for the effect of federal policies on the economy as a whole. How could the budget process be changed in a way that would focus attention more on the economic impact of policies?

Unauthorized Appropriations and the  
Authorization/Appropriation Process

Even before formally establishing rules to require it, Congress maintained a distinction between policy and funding questions. This separation has naturally produced a tension between committees which consider authorizations (policy) and those which consider appropriations (funding). No less than its structure, the process of considering these two functions separately lends itself to controversies.

### **The Volume of Unauthorized Appropriations**

Perhaps the most visible controversies stem from the amount and the incidence of unauthorized appropriations. Of the \$516 billion in discretionary appropriations for FY 1993, approximately \$31 billion (approximately 6%) was categorized by CBO as unauthorized, the result of the expiration of 59 authorization laws in the jurisdictions of 14 House Committees (12 Senate Committees). Only \$2 billion of this was for programs that expired at the end of FY 1992. The conclusion then is that the issue of unauthorized appropriations relates to a number of longer standing policy issues, and is not simply a matter of an impenetrable timetable. Indeed, approximately two-thirds of total unauthorized appropriations fall into three areas. The annual authorization for most of the activities of the Department of Justice (involving \$8.6 billion) has not been enacted since 1979, the annual authorization for civilian programs of the Department of Energy (involving \$4.6 billion) was last authorized (through 1984) in 1981, and over \$8 billion dollars for various international security and development and foreign assistance programs has been unauthorized since the end of FY 1987. In addition, authorizing committees point out that some unauthorized appropriations are not always captured by the CBO report, especially for unauthorized earmarking of funds, or for appropriations that exceed the authorization level.

On the appropriations side of consideration, 20 of the 26 regular annual appropriations bills and three supplemental appropriations bills considered in the 102d Congress were considered under special rules which waived House Rule XXI, cl. 2 (prohibiting unauthorized appropriations and legislation in a general appropriations bill). The Senate does not have a equivalent method for consideration so that comparable data are not available. In any case, this data supports the conclusion that although most unauthorized appropriations are concentrated in a small number of policy areas, the phenomena is widespread enough to touch on a larger number of areas.

## Differences in House and Senate Rules

Since 1837, the House has had a formal prohibition on unauthorized appropriations, and on legislating in a general appropriations bill, but the issue has remained an open one. In part, this issue has remained open because the Senate has operated under different, generally less stringent, rules in this regard, and not all provisions that would be in violation of House Rule XXI would be in violation of the corresponding Senate Rule (XVI). Indeed, this fact is widely recognized, and today dissatisfaction is often expressed by Members of the House in terms of provisions added by the Senate. The Senate rule does not establish a general prohibition on unauthorized appropriations. What strictures it does impose are attenuated by exceptions for acts or resolutions passed by the Senate during the same session, in pursuance of an estimate from the head of an Executive Department, or moved by direction of a standing committee. In addition, the prohibition does not apply against unauthorized appropriations reported by the Senate Appropriations Committee. With regard to legislative language in appropriations bills, Senate rules are more permissive than those of the House. In particular, recent years have seen an increase in the practice of using the so-called defense of germaneness as a means of countering a point of order that an amendment to an appropriation bill is legislative and out of order. This practice has grown out of the requirement that all amendments to appropriations bills be germane, and the provision that if a legislative amendment is germane, it is in order despite its legislative character.

The issue is also somewhat complicated by the fact that while service on the Appropriations Committee is generally an exclusive assignment in the House, Appropriators in the Senate sit on, and even chair, authorizing committees. The perception exists that as a result when it is difficult or impossible to enact authorization legislation Senators may find it less problematic than the House to enact the appropriations without an authorization or even to include authorizing language in the appropriation bill itself.

## Proposed Changes

A wide variety of proposals have been discussed which would have an impact on the relationship between authorizations and appropriations.

### A. Allow House Authorizers Greater Involvement in the Disposition of Senate Legislative Amendments to Appropriations Bills

Unauthorized appropriations and legislation in appropriations bills have been salient issues in the House, particularly with regard to Senate actions. As a consequence, some of the proposals for reform would allow House authorizers to have a greater involvement in the disposition of Senate legislative amendments to

appropriations bills and unauthorized appropriations. These reforms specifically involve amending House rules governing consideration of appropriations conference reports.

B. Establish a Point of Order in the Senate Against the Inclusion of Unauthorized Appropriations in Bills Reported from the Appropriations Committee

The current rules and practices of the Senate do not provide for a general prohibition on unauthorized appropriations. The prohibition that does exist applies only to amendments from the floor (with certain exceptions). Proponents suggest that establishing a point of order against unauthorized appropriations being reported from the Senate Appropriations Committee would require that the practices of the Senate, and particularly appropriators, become more like those of the House. The extent and incidence of unauthorized appropriations, however, suggests that specific unauthorized appropriations are at least equally likely to be the results of difficulties in the enactment of authorizations.

C. Restrict Legislative-type Language and Earmarking in Appropriations Reports

Although neither report language nor earmarking technically fall into the category of activities prohibited under the rules of either chamber, they have generated controversy, and some dissatisfaction has been expressed within both the House and Senate. Authorizers contend that while total appropriations are within limits prescribed by authorizing legislation, they often disregard language in authorization reports concerning details and priorities. Rules and precedents in both chambers allow general authorizations to be sufficient for specific appropriations. Establishing such a restriction would not only narrow the ability of the Appropriations Committees to have a direct impact on policy questions, but also make it difficult for appropriators to specify details even when authorizers have not done so.

D. Remove Restrictions on Limitation Amendments to Appropriations Bills

Although amendments which restrict the availability of funds in an appropriations bill for specified purposes are not considered legislative in nature, they can have a substantial policy impact. In 1983, the House imposed significant restrictions on the ability of Members to offer limitation amendments on the floor. The result has been that the incidence of limitation amendments (and appropriations amendments generally) have declined substantially. Removing the restrictions would allow Members to have greater impact on the availability of appropriations for policy reasons as well as fiscal reasons.



#### **E. Allow Deficit Neutral en bloc Amendments to Appropriations Bills.**

Under the precedents and practices of the House it is not in order to amend a bill in more than one place. In addition, appropriations bills are open for amendment paragraph by paragraph, with amendments in order only with respect to the paragraph currently open. The combined effect of these two practices is to prevent amendments which would decrease spending for one account and increase spending for another without resort to a special rule or unanimous consent. This rule change would allow Members to have a greater impact on budget priorities.

#### **Recent Change in House Rules**

The House has already adopted one change in its rules to address this concern. H.Res. 5 (103d Congress, adopted January 5, 1993) added a new clause to Rule XXVIII. This new rule provides that for an amendment in technical disagreement to an appropriations conference report which contains legislative language, a motion to insist on disagreement to the amendment will have preference if made by the chairman of the committee having jurisdiction over the provision. The motion would then be debatable for one hour divided between the authorizing committee chairman and the Appropriations Committee manager. This changes the normal order of precedence for motions in the House. Normally a motion to recede and concur (or to concur with an amendment) would have preference over a motion to insist. This new rule is projected as a means to make it more difficult to agree to Senate legislative provisions without the concurrence of the House committee with authorizing jurisdiction. Additionally, the division of debate time provided by this rule, between majority authorizer and majority appropriator, is unique because it does not guarantee any time for the minority.

#### **Issues Raised by Senate Legislative Amendments to Appropriations Bills**

Because most of the issues of unauthorized appropriations and legislation in appropriations bills are derived from House concern with Senate actions, some of the proposals for reform are directed towards allowing House authorizers to have a greater involvement in the disposition of Senate legislative amendments to appropriations bills and unauthorized appropriations, and involve amending House rules governing consideration of appropriations conference reports. Although these proposals would apply to both aspects, the issues are not identical. The House has a general prohibition on both unauthorized appropriations and legislation in appropriations bills, and the proposals made by authorizers in the Democratic Caucus enumerated below likewise do not make a distinction. The Senate, on the other hand does make a distinction. A point of order (under Rule XV) would likely apply against the Senate Appropriations Committee reporting legislative language, but no point of order would apply against them reporting unauthorized appropriations.

Of concern in considering these reforms is the source of legislative language. Although this would not have a direct impact on the application of proposals concerning House appropriations conference arrangements, it could alter the discussion considerably with regard to what Senate action the House considers problematic. Is it that Rule XV is being violated and the Appropriations Committee is including legislative language, or is it that Rule XVI is not stringent enough. Despite the argument that Senate service on both authorizing and appropriating panels contributes to the inclusion of legislative language, this does not seem to be the primary cause. On the other hand, to the extent that legislative amendments have been added in the Senate, it has been primarily during floor consideration. This has been a result of the current practice regarding the application of the defense of germaneness to legislative amendments. Senate Rules require that all amendments to appropriations bills be germane. If a legislative amendment is germane, it is in order despite its legislative character. A question of germaneness, however, is decided by the Senate, not by the presiding officer. If the Senate votes the amendment germane, it is in order, if they do not, it is not in order; in either case, its legislative character becomes moot.

\*Require authorizers to be included in corresponding appropriations conferences

Amend House Rule X, cl. 6(f) to require that the Speaker appoint Members from relevant authorizing committees to any conference committee on a Senate amendment to an appropriations bills that adds legislative language.

Supporters argue that this would redress an imbalance between the House and Senate in the authorization process. They contend that because Senators often sit on parallel authorizing and appropriations panels, there is an increasing tendency to add legislative language to appropriations bills when a free standing authorization bill would be problematic.

Opponents of this change argue that the Speaker already has the authority to take such action if he considers it necessary, and that he should not be bound by specific requirements when appointing conferees. More importantly, they argue that elevating the status of Senate legislative language in this manner could make it more difficult to drop such language in conference, and that prescribing a specific process for considering it, will legitimate it and increase its incidence.

\*Require that printed copies of Senate amendments be available before going to conference

Amend House Rule XX, cl.1 to require that no motion to go to conference with the Senate be in order unless printed copies of Senate amendments that would otherwise be subject to a point of order in the House have been made available to

Members prior to the motion being offered. Variations of this proposal would also specify a layover requirement.

Supporters point out that under current rules, a point of order cannot be raised against a Senate amendment if the committee with jurisdiction over the bill offers a motion to go to conference. Establishing a notice or layover requirement would help Members defend the prerogatives of the House, particularly those of authorizing committees.

Opponents maintain that such a change would be of little consequence in most cases. They explain that most appropriations bills in recent years have gone to conference under a unanimous consent agreement, not through motion. Further, they assert that printed copies of Senate amendments are generally available for at least a day before a request or motion to go to conference is made, and that mandating a notice or layover requirement may actually be counter-productive in circumstances when timely action is necessary.

#### \*Restrict waivers of House rules against the contents of conference reports

Amend House Rules to restrict or prohibit the use of waivers against provisions in appropriations conference reports which violate House Rule XX, cl. 2. That rule prohibits conferees from agreeing to Senate amendments which violate a rule of the House unless the House agrees to each such provision by a separate vote. Because the focus of such concerns is typically legislating in an appropriations bill, one form of restriction proposed is to allow a request for such a waiver only if agreed to by the chair of the legislative committee with jurisdiction over the disputed provision. Alternately, a super-majority could be required for adoption of any special rule including such a waiver.

Supporters argue that recent trends towards including problematic Senate amendments in the conference report rather than reporting them back in technical disagreement has the effect of insulating them. Although a point of order against an item being nongermane, outside the scope of House/Senate differences, unauthorized, or legislative in character do not apply to amendments in technical disagreement (as they would if included in the conference report proper), items reported back as amendments in technical disagreement can be subjected to individual action. Waivers of the rules against including such problematic items in a conference report protect the conference report from points of order, while preventing the House from getting a separate vote on the items in question.

### **Issues Raised by Establishing a Point of Order in the Senate Against the Inclusion of Unauthorized Appropriations in Bills Reported from the Appropriations Committee**

Amend Senate Rule XVI to apply the prohibition against unauthorized appropriations more strictly

The current rules and practices of the Senate do not provide for a general prohibition on unauthorized appropriations. The prohibition that does exist applies only to amendments from the floor (with certain exceptions). Proponents of this reform suggest that by allowing the Senate Appropriations Committee to include unauthorized appropriations, the prohibition of the House is nullified. By broadening the application of the prohibition in Rule XVI so that unauthorized appropriations reported from the Appropriations Committee would be subject to a point of order, these critics contend that a significant source of such items would be eliminated.

The extent and incidence of unauthorized appropriations, however, suggests that specific unauthorized appropriations are at least equally likely to be the results of difficulties in the enactment of authorizations. Approximately two-thirds of unauthorized appropriations for FY 1993 were for three areas which have had longstanding difficulties in enacting authorizations, the Departments of Justice and Energy, and foreign assistance. In such cases appropriations are at least equally likely to be included by House appropriators under protection of a special rule waiving the point of order under House Rule XXI. Indeed, most appropriations bills considered in the 102d Congress were considered under special rules which waived the application of points of order under Rule XXI. Therefore, opponents of more stringent application of the prohibition against unauthorized appropriations maintain that it would be largely ineffective. Without such waivers, a more stringent prohibition on unauthorized appropriations would place a burden of action on authorizers that does not now exist. For example, without such a waiver Congress would be faced with the challenge of enacting the authorization for the Department of Justice or shutting down most of its functions. Unauthorized appropriations can act as a safety valve in cases where policy questions prevent timely action on authorizations.

### **Issues Raised by Language in Appropriations Reports Which Have the Effect of Making Unauthorized Appropriations**

Amend House Rule XI and Senate Rule XXVI (concerning report requirements) to prohibit the inclusion of language in appropriations reports which would directly or indirectly result in changes in law or making unauthorized appropriations.

Not all concern with the Appropriations Committee performing legislative functions is directed towards the Senate. There is also some concern that both



Appropriations Committees often include language in their reports (and in conference reports) that has the practical effect of changing existing law, directing activities not provided for in authorization acts, or earmarking funds for facilities or projects not specifically authorized. Authorizers contend that this has the effect of usurping their functions by putting inappropriate policy and program decisions in a form that cannot be amended directly. Appropriators counter that neither the House nor Senate requires a specific authorization for each item for which an appropriation is proposed. General authorizations are sufficient for specific appropriations. Specifying items of appropriations within general policy or program authorizations is the function for which the Appropriations Committees were created.

This reform (proposed in the Democratic Caucus by Representative Brown) reform would place a unique burden on reports from the House Appropriations Committee. Rule XI specifies several items which must be included in reports, but does not describe anything that must be excluded.

A possible alternative for this reform would be to remove the current restrictions placed on limitation amendments. By liberalizing these restrictions, limitation amendments to be offered from the floor to prohibit the availability of appropriations for specified purposes, or to limit their availability to purposes or facilities specified in authorizations. This liberalization could possibly be limited to allowing the chairmen or ranking members of the authorizing committee of jurisdiction to offer limitation amendments. Although report language cannot be amended directly, a limitation on the use of funds could be an effective means of circumscribing its use.

#### **Issues Raised by Removing Restrictions on Limitation Amendments to Appropriations Bills in the House**

Amend House Rule XXI, cl. 2(d) to allow Members greater freedom to offer limitation amendments. Rule XXI currently provides that such amendments may only be offered after the entire bill has been read for amendment, but that a motion that the Committee of the Whole rise and report the bill to the House is preferential, and thus, can preempt the ability of Members to offer limitations.

Limitations are not technically considered legislative language since they establish no requirements for positive action and apply only to funds in that particular bill for the duration of their availability (usually one year), and not to spending generally or indefinitely. Even so, opponents of limitation amendments contend that their chief effect is to open policy debates during consideration of funding questions. Indeed, there is little evidence to suggest that limitations have an effect on aggregate spending since they generally do not reduce the level of appropriations, only limit their availability. In any case, amendments to reduce

appropriations are in order under current rules, although the purpose of such a reduction would be written as statutory language.

Advanced as part of the alternative rules proposal of the House Republican Conference, this rule would repeal a rules change adopted in 1983. Prior to the restriction on limitation amendments imposed by this rule change, limitation amendments occupied a significant portion of the floor time for consideration of appropriations bills. Since that time, the number and amount of floor time devoted to limitation amendments has declined precipitously. A return to pre-1983 procedures would likely result in a significant increase in the number of amendments to appropriations bills as well as the floor time, votes, and workload associated with them.

Proponents of removing the current restrictions maintain that it would allow Members who do not serve on the Appropriations Committee to have greater impact on spending priorities, and the availability of appropriations for policy reasons as well as fiscal reasons.

#### **Issues Raised by Allowing Deficit Neutral en bloc Amendments to Appropriations Bills.**

Amend House Rule XXI to allow offsetting, deficit neutral amendments to appropriations bills to be considered en bloc.

Under the precedents and practices of the House it is not in order to amend a bill in more than one place. In addition, appropriations bills are open for amendment paragraph by paragraph, with amendments in order only with respect to the paragraph currently open. The combined effect of these two practices is to prevent amendments which would decrease spending for one account and increase spending for another without resort to a special rule or unanimous consent. This rules change, proposed as part of the alternative rules proposal of the House Republican Conference is intended to allow Members to have a greater impact on budget priorities.

Opponents contend that by establishing a special procedure, the chief result would be to encourage Members to offer such amendments, resulting in an increase in the number of amendments to appropriations bills as well as the floor time, votes, and workload associated with them. They also suggest that it is largely unnecessary. They point out that an alternative which accomplishes the same purpose that has been used in recent years is to package the increase and decrease in dollar amounts in a new section at the end of the bill, as a single amendment using language that is not subject to division.

## Questions

1. Are unauthorized appropriations and legislative language in appropriations bills equal causes of concern?
2. What is the primary cause of unauthorized appropriations -- intention of the Appropriations Committees to circumvent the authorizations process or inability of authorizing committees to secure enactment of their legislation?
3. Would difficulties in enacting authorizations be ameliorated by setting aside a part of the year for authorizations and oversight? Would they be ameliorated by lengthening the time for considering budgetary legislation, such as with biennial budgeting?
4. Senate rules allow legislative language in appropriations bills when it is germane (presumably to legislative language included by the House). To what extent is legislative language in appropriations bills introduced as a result of Senate actions (and possibly a result of existing Senate rules not being enforced) rather than the operation of the authorization/appropriation process in the House?
5. To what extent is conflict between authorizers and appropriators generated as a result of appropriators specifying projects within a more general authorization (and thus allowed under longstanding precedent) rather than of appropriators specifying projects in contravention of an authorization? Since these are not technically unauthorized do rules and practices on what constitutes an authorization need to be revised? Is the solution to appropriate a lump sum and then allow the Administration to specify projects, or to have authorizers to specify projects? Why would either method be preferable?
6. To what extent might removing restrictions on limitation amendments reverse the increase in earmarking in appropriations?

### Changing the Authorization/Appropriation Structure

Although Congress has maintained a distinction between policy and funding decisions since its inception, some feel that the structure of how these decisions are made needs to be changed. According to these critics, the structure of the authorization/appropriation process increases congressional workload and forces Congress to revisit contentious issues unnecessarily.

#### **Proposed Changes in Structure**

Revising the structure of the authorization/appropriations process is a reform that probably will not require any statutory changes. The structure was established through the evolution of rules and practices in each chamber, and thus reform could be accomplished through changes in the rules of each chamber, or, in some cases, changes in practice. Perhaps as a consequence, few of the proposals in this area have been made in the form of formal resolutions, but instead have been the subject of speculation and discussion. In addition to these issues, broad questions concerning the timing of budgetary actions (such as biennial budgeting) and the relationship of authorizations and appropriations (especially unauthorized appropriations) are dealt with in separate memos.

#### **A. Dispersing appropriations jurisdiction to authorizing committees**

According to some critics, it is the fact that authorizations and appropriations are considered separately that is the main source of dissatisfaction. Consequently, proposals have been made which would disperse jurisdiction over appropriations bills to the various authorizing committees. These are generally intended to streamline the funding process by eliminating a layer of consideration which many feel makes the entire process redundant.

#### **B. Changing the timing or format of authorizing legislation.**

A major complaint of Members is that authorizations and appropriations are frequently not clearly distinguishable. One area in which the line between policy and funding is blurred is annually authorized programs. Annually authorized programs are on a cycle of consideration that parallels that for appropriations for the same agency or activity. Particularly when a previously established level of funding exists (most clearly demonstrated in the cases of international and defense spending in recent years), the two levels of consideration seem to be competing for allocating the same dollars. In addition, the emphasis in authorization legislation on funding levels for programs focus debate on budgetary rather than policy questions.



### C. Restructuring Appropriations Subcommittees

Another reform proposal would be to restructure the current process to clarify responsibilities and jurisdictions. This would include restructuring the appropriations subcommittee structure to correspond more closely with authorizing committees (to enhance the coordination between authorizers and appropriators), or with functional categories (to facilitate and clarify the process of making allocations from the budget resolution).

### Issues Raised by Collapsing the Authorization/Appropriation Process

Several issues are raised by proposals which would collapse authorizing and appropriations jurisdictions into a single process. These include the potential for actually reducing the level of Congress's budgetary workload, and its possible effect on Federal spending.

#### A. Impact on workload

Some supporters suggest that the congressional workload would be streamlined under a system in which authorizing committees also controlled appropriations for the programs under their jurisdiction. This streamlining might be largely illusory or obtainable only if other significant reforms are also enacted. One consequence of the dispersal of appropriation jurisdiction would be that there no longer would be any limitation on the number of appropriations bills. The fact that there are currently thirteen is an effect of the number of Appropriations subcommittees, and not of any fiscal imperative. Therefore, if appropriations jurisdiction in the House was dispersed, it would be expected that there would be at least one appropriation bill reported from each committee which considers authorizing legislation. For example, under its current jurisdictional alignment, the House would need to consider 18 or more appropriation bills.

In addition, the overlapping jurisdictions of House committees would be no less nettlesome if appropriations for those programs and agencies were involved. This jurisdiction problem would also be a factor in Senate consideration of appropriation bills. Additionally, the intercameral parity which currently facilitates action on appropriations bills no longer would be operative. Consideration of appropriations is streamlined under the current system because the House and Senate Appropriations Committees maintain a parallel structure. Because the Senate's current committee structure is significantly different from the House's, it is unclear how referrals and consideration of appropriations bills would be affected in the Senate. The intercameral alignment of standing committees, or the alignment of one body's standing committees with the other's Appropriations subcommittees, would have a critical effect on whether dispersing appropriations jurisdiction would have the intended streamlining effect.

These difficulties are solvable, however, if done in conjunction with other reforms. For example, the number of bills could be reduced by realigning committee structure and reducing the number of authorizing committees. Indeed, some proposals, such as S.Res. 13 (103d Congress), are framed primarily in terms of a general committee realignment. This would be a particularly important issue in the House because, by custom, that body originates all general appropriations bills. The problem of referral in the Senate would also be ameliorated by a realignment which established or maintained bicameral parity for consideration of appropriations bills.

Most proposals to disperse appropriations jurisdiction are silent on the question of combining authorizations and appropriations in the same measure. If the current prohibition on combining authorizations and appropriations (Rule XXI in the House, Rule XVI in the Senate) was not maintained, it is not clear that committees with jurisdiction over both functions would find it in their best interest to continue to keep them separate. If they did not, and therefore included funding in the same legislation that established, continued, or modified a program, it is likely that the number of bills containing budget authority would proliferate. This proliferation would occur as a matter of practicality as authorizing committees folded appropriations into the existing array of legislation they currently consider and report. Such a proliferation would make it extremely difficult to track the aggregate level of spending.

#### B. Impact on the Deficit

Criticism of these proposals often rests on the assumption that the authorizing committees would be less likely to constrain spending than the Appropriations Committees have been, and that in general, authorizing committees could be expected to be less likely to subordinate their individual spending priorities to those of the Congress as a whole without some limitation being imposed. Indeed, the historical record of the late nineteenth and early twentieth centuries (when appropriations jurisdiction was largely dispersed to authorizing committees) indicates that absent some exogenous control mechanism that indeed may be the case. Supporters point out, however, that the budget resolution already performs such a function, and that there is no evidence to suggest that committees with both authorizing and appropriating jurisdiction would be likely to violate allocations made to them from the budget resolution.

#### C. Impact on Clarity of Responsibility

Another contention of supporters of dispersing appropriations jurisdiction is that it will make clearer which committees have responsibility for particular spending decisions. Due to the existence of various forms of spending authority (including contract authority, borrowing authority, entitlements, and revolving funds) and mandates on appropriations action, they contend that it is not clear which committee controls the level of funding for some programs; and with limitations, unauthorized appropriations, and legislation in appropriations bills it is

not always clear which committee controls policies or programs. Unifying authorization and appropriation jurisdiction for each program in the same committee will likely reduce these concerns. Even so, overlapping jurisdictions over various programs, as well as differences in committee structures and referral patterns between the House and Senate might have the reverse effect and perpetuate them. Although the correlation between authorization and appropriations decisions would be enhanced and thus clarified, it is possible that the question of which committee is responsible for policy and funding decisions for individual programs would not be.

#### D. Other Issues

An additional consideration which might have significant impact involves the definition of general appropriation bills. Both the House and Senate apply special rules and procedures to the consideration of general appropriations bills, but not special appropriations or generally to authorizations. For example, in the House general appropriations bills are privileged for consideration; authorizations normally need to go through the Rules Committee to gain privilege. Proposals for dispersing appropriations jurisdiction are generally silent on this issue, and it is unclear, for instance, if a measure combining authorizations and appropriations would have the privilege of a general appropriations bill. Just as significantly, some committees (such as Veterans' Affairs) might not have a broad enough jurisdiction to report a general appropriations bill as it is currently understood.

Also of concern would be the consideration of supplemental appropriations bills. The current practice is to consider omnibus supplementals, but this would not be possible if jurisdiction over appropriations was dispersed. Without special procedures to promote an omnibus supplemental, Congress would need to consider separate supplemental spending bills from each committee with a program or agency facing a shortfall. Such a situation could greatly increase the number of supplementals considered, and the time and votes required.

#### Issues Raised by Changing the Timing and Format of Authorizing Legislation.

Some critics feel that some of the contentiousness and confusion that result in the perception of an inordinate budgetary workload is primarily the result of the blurring in the current system of authorizing and appropriating decisions. According to these critics, highlighting the distinction between separate policy and funding decisions, making it clearer who decides which type of question, would be a desirable course of action. In addition, to the extent that the current timing and format are primarily a result of informal practices rather than formal rules, there is no prohibition in current rules that would prevent them from being affected without any changes to the formal rules of the House or Senate.



### A. Impact on Workload

Proponent of reform suggest that by prohibiting specific dollar amounts in authorizing legislation, or by mandating longer authorization periods completely separate from the timing of the appropriations cycle, authorizations would be forced to focus on longer-term policy questions, rather than short-term funding issues. Some workload saving would probably accrue from any lengthening of the duration of authorizations. In addition, by more clearly delineating policy and funding questions, supporters claim that spending legislation could be expected to move through the process in a more streamlined fashion, unencumbered by unresolved policy questions.

Critics of such proposals maintain that policy and funding questions are inextricable, and that funding questions inherently allow policy questions to be revisited. These critics also claim that by specifying upper or lower limits for appropriations, authorizing committees can enhance their influence over appropriations levels. Further, they contend that the current format of authorizations developed as a means for articulating congressional policy positions and program details, and that authorizations are a significant part of congressional oversight. As such there should not be any formal prohibition on short-term authorizations, especially in volatile policy areas such as foreign assistance.

### B. Impact on the Deficit

Although the idea of removing authorization limits from authorizations seems counter-productive in the current fiscal climate, supporters of this option contend that aggregate level control of appropriations (through the allocation process under Section 302 of the Budget Act or appropriations spending caps under the Budget Enforcement Act) would continue to be effective, and that the only impact would be on priorities within the aggregate amounts.

## Issues Raised by Restructuring Appropriations Subcommittees

The Appropriations Committees of both the House and Senate currently operate with 13 parallel subcommittees which each report a single general appropriations bill annually. This subcommittee structure is the result of a piecemeal evolution rather than any single plan for alignment. In addition, the jurisdictional alignment of the subcommittees doesn't correspond to any other alignment system. The result is that appropriations for such diverse entities as the Departments of Housing and Urban Development and Veterans' Affairs and some large independent agencies (such as NASA and NSF) are considered as part of the same appropriations bill; defense appropriations are considered in the Department of Defense and Military Construction appropriations bills (and form a substantial portion of the Department of Energy's appropriations as well); and authorizations in the jurisdiction of the House Energy and Commerce Committee are considered by



several different Appropriations subcommittees. The differences between the structure of the budget resolution and appropriations jurisdictions is also the subject of criticism. The budget resolution and the allocations to committees under section 302(a) of the Budget Act are made on the basis of functional categories, so that the connection of these allocations to the suballocations made by committees under section 302(b) is sometimes unclear.

A realignment which established a more cohesive system for structuring appropriations bills could increase clarity in the spending process. For example, proponents of such a reform suggest that if there was a closer correspondence between functional categories and Appropriations subcommittees, the impact of decisions made in the budget resolution might be clearer. Opponents point out that although the groupings of entities under the jurisdiction of Appropriations subcommittees may have developed in an ad hoc manner, they do have a rational alignment based on programmatic/administrative issues. Functional categories are not based on what entities actually administer spending within the category. As a consequence, an alignment based on functional categories might be counter-productive in terms of overall clarity by fragmenting decision making with respect to a particular department or agency.

Unless the number of Appropriations subcommittees and appropriations bills were reduced in such a realignment, it does not seem likely that there would be any significant reduction of workload. However, the workload could be substantially reallocated within the appropriations process. For example, the amount of time for floor consideration of appropriations bills is roughly equal although the level of funding varies widely. This may have the effect of raising the salience of some issues with comparatively modest spending impact and reducing the salience of others with greater impact. Realigning Appropriations subcommittees could have an impact by making the spending level of appropriations bills and the time allocated for their consideration generally more proportional

## Questions

1. Is the primary purpose of dispersing appropriations jurisdiction to increase clarity of responsibility for budgetary actions or to reduce congressional workload?
2. Is parity of appropriations jurisdiction between House and Senate necessary to make the system work?
3. Does the system which gives nominally equal importance to the District of Columbia appropriations bill and the Department of Defense appropriations bill distort the process?
4. Could the structure of Appropriations subcommittees be changed? Could the number of subcommittees be reduced? Could they be realigned more closely with authorizing committees? Could they be realigned to correspond with the functional categories in the budget resolution? Would it be necessary for the House and Senate to realign along parallel lines?

### Line Item Veto and Statutory Alternatives

Many Presidents have sought the authority to reduce or eliminate specific items in appropriation bills, a power possessed by 43 of the 50 state governors. The President currently has only two options--either to sign or veto a bill in its entirety. Proponents of the item veto say that this limits the President's ability to eliminate wasteful spending. Accordingly, they propose to empower the President to reduce particular portions of appropriation bills (called line items), while approving the balance of the bill. They argue that the President, as a representative of the general interest, should have the power to strike provisions that serve only a narrow interest.

#### **Proposals to Provide the President with Line Item Veto Authority**

The line item veto was originally proposed as a constitutional amendment. More recently, however, various statutory changes have been proposed that would provide the President with the authority to veto particular line items, without amending the Constitution.

\*A constitutional amendment could be enacted that would provide the President with additional options. Such an amendment could be proposed by two-thirds of those voting in each House and would need to be ratified by three-fourths of the state legislatures. Already in the 103rd Congress, more than ten such proposals have been introduced. Most of these proposed amendments would allow the President to eliminate particular line items, although some of them would also permit him to reduce budget authority for particular items.

\*Enhanced rescission proposals are designed to have the same effect as the item veto, without requiring a constitutional amendment. They would change the current procedures for rescinding--or canceling--appropriations after enactment. At least three different such proposals have been introduced during the 103rd Congress. The proposals receiving the greatest attention in the 102nd Congress were the Solomon proposal (H.R. 5915) and the Coats-McCain proposal (S. 196).

Currently, the Congressional Budget and Impoundment Control Act of 1974 permits the President to propose the rescission (in whole or in part) of budget authority, which takes effect only if approved by each House within 45 days of continuous session after it is proposed. The Congress can effectively disapprove Presidential rescission proposals by ignoring them. Enhanced rescission (often called "legislative line item veto") proposals would reverse the existing procedure. A Presidentially-proposed rescission would automatically take effect unless disapproved by both House of Congress through passage of a "rescission disapproval bill". This bill could then be vetoed by the President, and it would take a two-thirds

vote of both Houses to override. In effect, enhanced rescission would force vetoed items to face the same test as a constitutionally-enacted line item veto.

Many analysts argue that enhanced rescission is an even more potent tool for the President than a line item veto enacted by Constitutional amendment, since it would permit the President to define the nature of a "line item" (there is currently no specific definition). While a constitutional amendment would allow the Congress to limit the President's options by creating very large line items in appropriation bills, enhanced rescission would permit the President to define a line item as a much smaller, and more discrete, portion of spending in an appropriation bill.

Consider a case in which the Congress passed the entire appropriation for the Treasury Department as a single line item, but the President wished to eliminate the budget for the Internal Revenue Service (IRS). If the item veto were enacted as a constitutional amendment, he could not eliminate funding for the IRS without striking funds for the whole Treasury Department. Enhanced rescission authority would allow him to propose rescission of only the IRS budget, leaving the rest of the Treasury budget in tact.

\*Expedited rescission proposals (such as H.R. 2164, which passed the House in the last days of the 102nd Congress) are more limited in their grant of authority to the President. They would require the Congress to vote on rescissions proposed by the President; a simple majority vote would prevail. In this case, though, the President is accorded an agenda-setting role. Congressional spending that he disagrees with must face an additional test, but is not required to receive the support of extraordinary majorities in each House in order to be enacted. H.R. 2164 would have enacted this change as a pilot test that would have terminated at the conclusion of the 102nd Congress.

\*Requiring line items to be enrolled separately is the final proposed statutory alternative to the item veto. Such proposals would require the clerk of each House to enroll each item in an appropriation act (or tax bill) as a separate bill, for purposes of presentment to the President. This means, of course, that the President would be able to veto individual items of appropriation (or changes in tax law) through the normal veto process. Senator Hollings has advanced such proposals in the 103rd Congress and the 102nd Congress. Senator Bradley has advocated, but not introduced, a bill that would extend this authority to tax legislation as well.

### **Issues Raised by Such Item Veto Proposals and Statutory Alternatives**

Proponents of the line-item veto argue that a lot of wasteful spending currently occurs because provisions are added during the legislative process. Many of these, it is argued, do not benefit the larger public interest but benefit only narrow constituencies. Further, many of these "riders" are added in conference committees without much public scrutiny. Item-veto supporters say that by



providing the President with the authority to eliminate such narrow-interest appropriations, wasteful spending would decrease. They view the President, who represents a national constituency, as more likely to reflect the broader public interest in his budget choices.

Several issues are raised by both line item veto proposals and the statutory alternatives discussed above. These include the additional authority provided to the President, the effect of the item veto on federal spending and the budget deficit, and the possibility that requiring Congressional action on more proposed rescission would create a substantial additional workload for the Congress.

#### Additional Authority to the President

Each of these proposals would provide additional authority to the President. The constitutional amendment, enhanced rescission and separate enrollment approaches would require a two-thirds vote to override a veto, while the expedited rescission proposal would require only a simple majority. In any of these cases, the argument for providing the President with such authority usually surrounds his position as a representative of the general interest, in contrast to the more narrow constituencies served by Members of Congress. For this reason, it is argued, the President is less likely to engage in low priority locally oriented--so called "pork barrel"--spending. These projects would then have to gain a support by at least a majority in each House in order to be enacted.

Presidents would not only be given the authority to eliminate or reduce particular line items, but could also use the threat of a veto to pursue their own spending priorities. This increased bargaining power could be used to encourage the Congress to approve Presidentially-supported spending, or it could be used by the President to induce the Congress to enact other policies that the President supports, such as spending reductions or tax increases.

#### Effect of the Item Veto on Spending and the Deficit

Whether enacted as an amendment to the Constitution or statutorily, the item veto may have limited effect on total spending and the deficit. Since the veto would apply only to discretionary spending, its potential usefulness in reducing the deficit or controlling spending is necessarily limited.

This point can be illustrated by looking at the budget for fiscal year 1993. The outlay caps for discretionary spending, which were created by the Budget Enforcement Act (BEA), total \$547 billion. Other spending, including mandatory spending and interest on the national debt, is projected to be \$906 billion. Discretionary spending, which is the only portion of the budget that would be

subject to the item veto, therefore represents less than 40 percent of total projected spending in fiscal year 1993.

Further, some argue that the item veto would apply to the area of the budget that is, comparatively speaking, under control. Discretionary spending has grown far slower than mandatory spending, a trend that is expected to continue under current policies. Mandatory spending (fueled by an increase in health care spending) increased by an average of 8.7 percent a year between fiscal years 1987 and 1992, compared with less than 4 percent for discretionary spending.

The item veto has limited potential to reduce the discretionary portion of the budget mainly because appropriated spending has already been limited by other means. The BEA's discretionary spending caps represent a statutory agreement between the President and the Congress on the level of discretionary spending. It is hard to imagine, in this case, that the item veto would be likely to lead to additional reductions in a regime where spending is capped. Further, as noted above, whether granting additional authority to the President would lead to a decrease in spending depends on the degree to which the President supports reduced deficits rather than increased spending.

Because an item veto would shift the balance of power between the President and the Congress, it probably would affect the distribution of spending by substituting some Presidential budget priorities for Congressional ones. Evidence from studies of the states' use of the item veto supports this claim; state governors have used it to shift state spending priorities rather than to decrease spending. Some analysts would argue that shifting spending priorities is sufficient reason to adopt the item veto if the President is less likely to engage in pork-barrel spending. An item veto, they argue, would make the President more responsible for spending choices, and lessen the tendency for the two branches to blame each other for the proliferation of "wasteful" spending.

Applying the line item veto not only to discretionary spending, but to tax legislation as well (as has been suggested by Senator Bradley) would increase the stakes substantially. The President could presumably veto individual sections of a tax bill--sections that either increased or decreased taxes--while approving the remainder of the bill.

#### Increasing Congressional Workload

All forms of the item veto have the potential to increase the workload of the Congress. Presumably, providing the President with the authority to veto individual items could increase the number of Presidential vetoes substantially, and each of these vetoes (or rescission proposals) could prompt Congressional action in each House. Such an increase in Congressional workload could eat up many hours of Congressional committee and floor time.

Recognizing this, some proponents of increasing the President's rescission powers would prefer that the President be able to identify all items in a single appropriation bill in one rescission message, which would then be acted on as one package by the Congress. They would thus usually limit the President to a maximum of thirteen messages for regular appropriation bills. The advantage of this is that it would presumably reduce the amount of effort expended by the Congress in dealing with these proposals.

There is a significant potential drawback, however. One important advantage often cited for the item veto is that vetoed spending items are forced to stand on their own, rather than being buried within large appropriation bills which are presented to the President for an all-or-nothing decision. Spending bills which cover a great many items can promote vote-trading (often called logrolling) as Members trade support for particular spending items with each other, knowing that no individual proposals will be required to face an up-or-down vote alone. While such agreement may be less likely to hold up in the case of votes on individual items, if a large number of items is included in a single rescission message, the ability of the Congress to obtain the votes to disapprove the rescission is greatly enhanced.

## Conclusion

Debates about whether to adopt the item veto will undoubtedly focus on all three of these issues, and possibly others. Perhaps the most important thing to keep in mind is that the item veto should not be adopted because it is anticipated to reduce spending substantially. The strongest case for the reform relies on a belief that Presidents can identify projects with purely local benefits and are willing to act against them without substituting their own local-benefit projects. The extent to which this belief is true is highly dependent on the priorities of an individual President. Simply put, the item veto is a tool for fiscal restraint only in the hands of Presidents who place a top priority on reducing spending and the deficit.

## Questions

1. Why should we believe that the item veto will lead to a decrease in spending? For example, what if a President decided to trade his support for Congressional "pork" for the support of a Member for spending that he cared about (the Space Station or the Superconducting Supercollider, to name two)?
2. Wouldn't enacting the item veto or some statutory alternative substantially increase the workload of the Congress, given the number of additional committee and floor votes that it would lead to?
3. Many people point to the state experience with the line item veto as evidence that it should be enacted at the federal level. What does this experience tell us about the likely effect of the veto for the federal government?
4. Isn't it true that the item veto would apply only to the area of the budget which is already under control? Isn't the real issue getting a handle on entitlement spending, especially for health care?
5. Won't the primary effect of the item veto be to redirect spending from Congressional priorities to Presidential priorities? And isn't that a good thing, given the tendency of the Congress to engage in pork-barrel spending?



**SUMMARY OF OPTIONS FOR  
CONGRESSIONAL BUDGET PROCESS REFORM**

**I.    OPTIONS FOR ELIMINATING A LAYER OF CONSIDERATION OR  
REDUCING ITS FREQUENCY.**

- A.    Eliminate the budget resolution.
- B.    Establish a biennial budget resolution.
- C.    Eliminate appropriations as a separate jurisdiction.
- D.    Establish two-year appropriations.
- E.    Restructure the Appropriations Committee to reduce the number of subcommittees.
- F.    Eliminate authorization as a separate step in the funding process.
- G.    Require longer-term authorizations.
- H.    Adopt an omnibus appropriations bill.
- I.    Adopt an omnibus budget bill (including taxes and appropriations).

**II.   OPTIONS FOR REDUCING CONFLICT BETWEEN AUTHORIZERS AND  
APPROPRIATORS.**

- A.    Prohibit appropriations report language which contravenes provisions in an authorization.
- B.    Change House Rules to eliminate unauthorized appropriations without concurrence of authorizing committee.
  - 1.    Prohibit special rules containing waivers of House Rule XXI without concurrence of authorizing committee chairman or super-majority.
  - 2.    Allow House authorizing committee chairmen to offer limitation amendments on programs within their jurisdiction.
- C.    Make the Appropriations Committee an exclusive assignment in the Senate.
- D.    Apply Senate Rule XVI prohibition against unauthorized appropriations to the Appropriations Committee.
- E.    Prohibit authorizations from specifying dollar amounts.
- F.    Require authorizations to be in place prior to submission of the President's budget.
- G.    Establish a deadline for committees to report authorizing legislation.

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### III. OPTIONS INTENDED TO MAKE THE BUDGET COMMITTEES STRONGER OR MORE EFFECTIVE.

- A. Options for reforming the House Budget Committee.
  - 1. Give the Committee broader jurisdiction over the budget process.
  - 2. Give the Speaker authority to appoint the Budget Committee Chairman.
  - 3. Make the Budget Committee a permanent assignment.
  - 4. Reduce the size of the Budget Committee.
- B. Grant the Senate Budget Committee confirmation jurisdiction over OMB officials.
- C. Make the Budget Committees leadership committees.
  - 1. Composed of all committee chairs and ranking members.
  - 2. Composed of Majority and Minority leaders and Appropriations and tax committee chairs and ranking members.
- D. Make the Budget Committee a joint leadership committee composed of either all committee chairs and ranking members or the Majority and Minority leaders and Appropriations and tax committee chairs and ranking members from each chamber.
- E. Change the congressional committee structure so that committee jurisdictions are consistent with the functional totals included in the budget resolution.

### IV. OPTIONS FOR CHANGING THE RECONCILIATION PROCESS.

- A. Eliminate formal deadline for reconciliation legislation from the budget timetable.
- B. Apply the Senate's rule against extraneous matter in reconciliation bills to the House.
- C. Allow Budget Committees to write program specific reconciliation instructions.
- D. Allow separate reconciliation instructions concerning changes in tax expenditures.
- E. Allow Budget Committees greater freedom to write substitutes for committees not in compliance with reconciliation instructions.
- F. Allow sequestration to be targeted to programs in the jurisdiction of committees not in compliance with reconciliation instructions.

V. OPTIONS FOR CHANGING BUDGET PRESENTATION OR INFORMATION.

- A. Prohibit "baseline budgeting".
- B. Apply accrual accounting to unfunded liabilities (e.g., deposit and pension guarantees).
- C. Sunset/zero-based budgeting.
- D. Performance budgeting.
- E. Include tax expenditures in the budget.
- F. Special treatment of capital expenditures.
- G. Special treatment of trust fund expenditures.
- H. GDP budgeting.
- I. Change the status of GSEs in the budget.

VI. OPTIONS TO ENHANCE PRESIDENTIAL REVIEW OF CONGRESSIONAL FISCAL DECISIONS.

- A. Make the budget resolution a joint resolution.
- B. Item veto.
- C. Expedited rescission of appropriations.
- D. Enhanced rescission of appropriations.
- E. Separate enrollment of appropriations items.
- F. Separate enrollment of tax provisions.
- G. Expedited reconsideration of individual tax provisions at presidential initiative.
- H. Allow President to disapprove individual tax provisions.

VII. OTHER OPTIONS.

- A. Establish a cap on mandatory spending.
- B. Require a specified amount of deficit reduction for mandatory spending programs.
- C. Establish fixed deficit targets (including a balanced budget amendment).
- D. Limit spending to a fixed percentage of GDP.
- E. Prohibit "unfunded mandates" to state or local governments.
- F. Require super-majority vote to enact tax increases.
- G. Merge functions of Joint Tax and Joint Economic Committees with CBO.
- H. Require presidential budget submission by January 20.

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- I. Limit waivers of Congressional Budget Act Provisions in the House.
  - 1. Prohibit blanket waivers.
  - 2. Require special rules waiving provisions of the Budget Act be passed by super-majority vote.
  - 3. Allow separate vote on any waiver provision in a special rule.
- J. Establish a permanent continuing resolution.
- K. Require identification of small beneficiary pools.



**OPTIONS FOR CONGRESSIONAL BUDGET PROCESS REFORM****I. OPTIONS FOR ELIMINATING A LAYER OF CONSIDERATION OR REDUCING ITS FREQUENCY.****A. Eliminate the budget resolution.**

This option would eliminate the need for Congress to adopt a concurrent resolution on the budget as a blueprint for subsequent budgetary actions. The budget resolution is required by Title III of the Congressional Budget Act.

**Pro:**

- Since one stage of the process would be eliminated, the potential for conflict would be reduced. Only the aggregate numbers in the budget resolution are binding, therefore many conflicts over details in the budget resolution are repeated later in the process, when reconciliation or appropriation bills are considered.
- Because the aggregate level of spending or revenues is rarely a source of serious conflict, and only these aggregates are resolved in the budget resolution, the resolution is unnecessary.
- If there were no budget resolution, the President's budget would be taken more seriously as the starting point for Congressional action. This would make the President more likely to submit a responsible budget.

**Con:**

- The budget resolution is a useful vehicle for getting the Congress to focus on the aggregate budget, and does not consume much floor time.
- Congress will become too dependent on the President's budget, since there will be no comprehensive statement of congressional priorities.
- Budget resolution triggers reconciliation, which has been used to control the growth of entitlements and to force action on tax increases, neither of which might occur without such a procedure to force them.

**B. Establish a biennial budget resolution.**

This option would replace the current annual process of adopting a concurrent resolution on the budget with one that only required congressional action every other year. The budget resolution is provided for in Title III of the Congressional Budget Act.

**Pro:**

- Sets guidelines for two years at a time, reducing the overall level of conflict, and potentially reducing the amount of time that is consumed by budgeting.

**Con:**

- Raises the stakes for any decision made in the resolution, which may make agreements more difficult to achieve.
- It is difficult to predict the factors that influence the budget. Even with the current annual process, projections of economic and technical factors that drive revenues and spending are often wrong. This situation is likely to be even worse under a biennial budget. Because of this, the odds are that the resolution would require substantial revision in the second year. This could make proposed workload relief illusory.

**C. Eliminate appropriations as a separate jurisdiction.**

This option would eliminate the Appropriations Committees and disperse its jurisdiction over appropriations to the legislative committee or committees which control the authorizations for each program or activity of the government. Jurisdiction over appropriations bills is defined in House under Rule X, clause 1(b) and Rule XXI, clause 2 and clause 5(a), and in the Senate under Rule XXV, clause (b).

**Pro:**

- Allows Congress to decide policy and funding in a single measure, thus eliminating conflict over whether authorizers or appropriators should decide the details of spending.
- To the extent that jurisdictions of authorizing committees are clear, allows for clarification of who is responsible for spending decisions.

**Con:**

- Different committees should be responsible for setting policy than those that are responsible for allocating scarce resources.

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- It is uncertain that this would reduce the number of votes or amount of time devoted to spending decisions, particularly since combining the committees would not eliminate the requirement for annual appropriations.
- Since authorizing jurisdictions are not parallel in the House and Senate, the appropriations process would not work as well.
- Overlapping and conflicting jurisdictions for authorizations would intrude on appropriations in new and potentially undesirable ways (jurisdictional disputes could slow down a delicately timed process; duplication of funding efforts would be inherently more problematic than duplication of policy efforts).
- Since appropriations subcommittees are currently organized along agency or program lines, the current structure facilitates oversight.

**D. Establish two-year appropriations.**

This option would increase the duration of availability of appropriations from a single fiscal year to two. Jurisdiction over appropriations bills is defined in House under Rule X, clause 1(b) and Rule XXI, clause 2 and clause 5(a), and in the Senate under Rule XXV, clause (b). This jurisdiction, however, does not explicitly address multi-year appropriations.

**Pro:**

- Reduces the number of spending decisions to be made each year.

**Con:**

- Since it is difficult to predict funding requirements in advance for many programs, two-year appropriations will lead to a greater demand for supplementals, the frequency of which may offset any projected workload savings.
- Reduces the utility of annual appropriations actions as an oversight mechanism.

**E. Restructure the Appropriations Committee to reduce the number of subcommittees.**

This option would provide for fewer Appropriations subcommittees, each of which would have a relatively equal workload.

**Pro:**

- Reducing the number of subcommittees would also reduce the number of appropriations bills.

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- Restructuring Appropriations subcommittees could equalize the dollar amounts and workload associated with each.
- Restructuring could make Appropriations subcommittees correspond to modern priorities.

**Con:**

- The current structure enhances decision making and trade-offs between spending priorities, since fewer Members sit on each panel and each Member sits on several panels.
- A similar restructuring would need to be done in both houses simultaneously, so that jurisdictions would remain identical.

**F. Eliminate authorization as a separate step in the funding process.**

This option would allow for appropriations to be made for any program or activity of the government without a separate authorization. The requirement for separate authorizations and appropriations is in House Rule XXI, clause 2 and clause 5(a), and Senate Rule XVI, although these requirements are not identical.

**Pro:**

- Would cut down on the current practice of legislation providing explicit limits on appropriators which reduces their ability to respond to changing circumstances.
- Legislation would be held up by funding questions.
- Would eliminate the sometimes confusing concept of what constitutes "unauthorized" appropriations. For example, eliminating the prohibition on unauthorized appropriations in House Rule XXI, clause 2(a) would establish more comparable rules in the House and Senate; the Senate does not prohibit the Appropriations Committee from reporting unauthorized appropriations.

**Con:**

- Gives too much control to the appropriators, since this change would eliminate authorizing bills as an important budgetary control mechanism.
- Would make it difficult for authorizers to have impact on the details of policies or programs in their jurisdiction.



**G. Require longer-term authorizations.**

This option would involve establishing a new rule to prohibit authorizations for only a single year. There is currently no explicit prohibition against enacting multi-year authorizations, and many agencies are authorized for periods of two or more years.

**Pro:**

- Reduces the number of votes annually.
- Reduces the confusion between authorizations and annual funding decisions.

**Con:**

- Reduces the ability of authorizers to prescribe dollar amounts since that would require them to have more information about future funding requirements than they are likely to have.
- May reduce the detail of authorizations which might lessen authorizers' influence on appropriations decisions.

**H. Adopt an omnibus appropriations bill.**

This option would combine all appropriations into a single measure rather than the thirteen bills considered under current practice. The existing number is a reflection of Appropriations Committee structure and practice, rather than of law.

**Pro:**

- Would focus the attention of the Congress on the aggregate level of appropriations.
- Would potentially allow for Congress as a whole to have a greater say in making trade-offs among activities currently funded in separate appropriations bills.
- The President would have less of an opportunity to undo congressional spending priorities by vetoing separate appropriations measures.

**Con:**

- Amending activity on omnibus bills in the House is often restricted, so that individual Members might be less able to change an omnibus appropriations bill.

- The President would have less of an opportunity to undo congressional spending priorities by vetoing separate appropriations measures.
- Previous experience with omnibus appropriations or their equivalent (FY 1951, 1987, 1988) have not been wholly successful.

**I. Adopt an omnibus budget bill (including taxes and appropriations).**

This option would provide for the enactment of both the broad outlines of fiscal and budget policy and the details of spending and revenues in the same measure. Jurisdiction over appropriations bills is defined in House Rule X, clause 1(b) Rule XXI, clause 2 and clause 5(a), and Senate Rule XXV, clause (b); jurisdiction over taxes is defined in House Rule X, clause 1(v) and Rule XXI, clause 5(b) and in Senate Rule XXV, clause (i); jurisdiction over the budget resolution is defined in House Rule X, clause 1(e), Senate Rule XXV, clause (e), and Title III of the Congressional Budget Act.

**Pro:**

- Would allow the broad outlines and details of budgetary policy to be better coordinated than is currently possible, and would result in fewer repetitive votes.
- Would potentially allow for Congress as a whole to have a greater say in making trade-offs among activities currently funded in separate legislation, and to make explicit trade-offs between spending and revenues.
- The President would have less of an opportunity to undo congressional spending and revenue priorities by vetoing separate measures.

**Con:**

- Amending activity on omnibus bills in the House is often restricted, so that individual Members might be less able to change an omnibus appropriations bill.
- Jurisdiction over the disparate aspects of such an omnibus measure would need to be coordinated to a degree that is not currently practiced.
- The President would have less of an opportunity to undo congressional spending and revenue priorities by vetoing separate measures.

## **II. OPTIONS FOR REDUCING CONFLICT BETWEEN AUTHORIZERS AND APPROPRIATORS.**

### **A. Prohibit appropriations report language which contravenes provisions in an authorization.**

This option would prohibit the inclusion of language in appropriations reports which would directly or indirectly result in changing existing law, directing activities not provided for in authorization acts or earmarking funds for facilities or projects not specifically authorized. The current requirements concerning legislative reports appears in House Rule XX and Senate Rule XXVI.

#### **Pro:**

- Would prevent authorization legislation from being superseded by appropriations.
- Would prevent appropriators from specifying details in report language in a form that cannot be amended directly.

#### **Con:**

- It is unclear what would constitute a violation of this provision, since neither the House nor Senate requires a specific authorization for each item.
- Would cede control of more program details to authorizers.
- Would establish an unprecedented legal prohibition against report language; currently all provisions in rules deal with what must be included.

### **B. Change House Rules to eliminate unauthorized appropriations without concurrence of authorizing committee.**

#### **1. Prohibit special rules containing waivers of House Rule XXI without concurrence of authorizing committee chairman or super-majority.**

This option would prohibit unauthorized appropriations unless the authorizing committee explicitly yielded their prerogative to raise a point of order.

#### **Pro:**

- Would give authorizing committees stronger control of any changes to authorizing legislation.

**Con:**

- Would allow a minority to prevent the House from taking action which otherwise would require only a majority to approve.
- It is already the stated policy of the Rules Committee not to include such waivers if the authorizing committee objects.

**2. Allow House authorizing committee chairmen to offer limitation amendments on programs within their jurisdiction.**

This option would allow authorizing committees to offer amendments which would prohibit spending for programs or activities within their jurisdiction thereby protecting themselves from unauthorized appropriations.

**Pro:**

- Would allow authorizers to prevent the use of funds for unauthorized purposes.

**Con:**

- Could potentially open appropriations bills to lengthy policy debates not only on unauthorized appropriations, but on other subjects as well.

**C. Make the Appropriations Committee an exclusive assignment in the Senate.****Pro:**

- Would make Senate practice consistent with that of the House, where Members who sit on the Appropriations Committee may not sit on an authorizing committee as well.
- Would provide greater incentive for Senate authorizing committees to pass authorizing legislation by reducing the potential to use appropriations bills to enact legislative language.

**Con:**

- Might narrow the policy focus of some Senators.
- Other Senators might need to serve on more committees and subcommittees to compensate for this change.



**D. Apply Senate Rule XVI prohibition against unauthorized appropriations to the Appropriations Committee.**

The language in Rule XVI prohibits amendments from being offered by a Senator to general appropriations bills which are for a purpose not provided by existing law. It does not apply this prohibition to amendments offered by or on behalf of either the legislative committee of jurisdiction or the Appropriations Committee.

**Pro:**

- Would make the Senate definitions of an unauthorized appropriation more consistent with that of the House.
- Would provide greater incentive for Senate authorizing committees to pass authorizing legislation.

**Con:**

- Would inhibit the flexibility of appropriations in cases where timely action cannot be taken on authorizations.

**E. Prohibit authorizations from specifying dollar amounts.**

This option would require authorizations of "such sums as are necessary" so that appropriators would decide the level of funding for programs and activities without authorizers recommending amounts or establishing limits.

**Pro:**

- Would force authorizations to focus on policy questions rather than funding questions.
- Would eliminate a source of confusion over the effect of dollar amounts in authorizations, especially since dollar amounts in authorizations often have no relationship to the amount appropriated.

**Con:**

- Gives too much control to the appropriators, since this change would eliminate authorizing bills as an important budgetary control mechanism.
- Would make it difficult for authorizers to have impact on the details of policies or programs in their jurisdiction.

**F. Require authorizations to be in place prior to submission of the President's budget.**

This option would require authorizing legislation to be enacted in advance.

**Pro:**

- Would allow the budget process (President's budget, budget resolution, appropriations) to focus on existing rather than proposed authorizations.
- Allows easier compliance with requirement in congressional rules prohibiting unauthorized appropriations.
- Allows for authorizations to be effectively eliminated from debate during consideration of spending for the upcoming fiscal year.

**Con:**

- Would require that authorizations be enacted a year or more before appropriations to implement them.
- Would not reduce the number of authorizations (or Congressional workload), but could create confusion, since authorizations for one fiscal year and appropriations for another fiscal year would be considered in the same Congressional session.

**G. Establish a deadline for committees to report authorizing legislation.**

This option would impose a deadline similar to one that existed until 1985 under the Congressional Budget Act.

**Pro:**

- Would encourage committees to report legislation early in the session, allowing the leadership to establish a more orderly agenda.

**Con:**

- When this requirement was in place, it often resulted in a bottleneck of legislation, rather than providing for its orderly consideration. Consequently, it was often a major cause of Budget Act waivers.

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### III. OPTIONS INTENDED TO MAKE THE BUDGET COMMITTEES. STRONGER OR MORE EFFECTIVE.

#### A. Options for reforming the House Budget Committee.

##### 1. Give the Committee broader jurisdiction over the budget process.

The Committee's jurisdiction is defined in House Rule X, clause 1(e) and the Congressional Budget Act.

#### Pro:

- The Budget Committee has major responsibility for carrying out and enforcing the Congressional Budget Act, the Balanced Budget and Emergency Deficit Control Act, and the Budget Enforcement Act, but does not have any legislative jurisdiction with which to have a claim for having an institutional impact on any changes to them.

#### Con:

- The House Budget Committee is not intended to exercise independent authority. This is the reason that the 1974 Budget Act dictated that the Committee consist largely of Members who represent other committees and interests, and limited their terms.

##### 2. Give the Speaker authority to appoint the Budget Committee Chairman.

House provides for selection of committee chairs generally in Rule X, clause 6.

#### Pro:

- Would position the Budget Committee more closely within the influence of the leadership, strengthening its ability to negotiate with the President on fiscal or budgetary policy.

#### Con:

- Would limit the ability of members of the Committee other than the chairman to participate, and would impede the Budget Committee from making independent judgements concerning fiscal or budgetary policy.

##### 3. Make the Budget Committee a permanent assignment.

The makeup of the Committee is prescribed in House Rule X, clause 1(e).

**Pro:**

- Rotating membership prevents Members from developing expertise in the budget process.

**Con:**

- Rotating membership ensures that more Members will become involved with and familiar with the budget process.

**4. Reduce the size of the Budget Committee.**

The House Budget Committee is currently 37 members (23 D, 14 R).

**Pro:**

- Much of the direction for the Committee comes from the goals established by the leadership, making the current Committee size unnecessary.
- Much of the work of the Committee is technical and carried out by staff, making the current size of the Committee unnecessary.

**Con:**

- Large membership ensures that more Members will become involved with and familiar with the budget process.

**B. Grant the Senate Budget Committee confirmation jurisdiction over OMB officials.****Pro:**

- The Budget Committee has major responsibility for dealing with OMB, and shares legislative jurisdiction over the budget process with the Committee on Governmental Affairs, but exercises no oversight or Confirmation jurisdiction.

**Con:**

- Legislative jurisdiction does not necessarily imply confirmation jurisdiction, and joint jurisdiction over confirmations is rare.

**C. Make the Budget Committees leadership committees.**

The House specifies the makeup of the Committee in Rule X, clause 1(e); there is no comparable directive in the Senate.



**1. Composed of all committee chairs and ranking members.**

**Pro:**

- The committees of jurisdiction would be more likely to carry out the decisions made in the budget resolution since their chairs and ranking members would be represented on the Budget Committee.

**Con:**

- Could concentrate authority over fiscal policy in too few hands.

**2. Composed of Majority and Minority leaders and Appropriations and tax committee chairs and ranking members.**

**Pro:**

- Would help to ensure that budgetary decisions made through the Budget Committee would be carried out by the committees with the greatest responsibility for budget-making.

**Con:**

- This change seems unnecessary in the House where the majority and minority leaders each appoint Members to serve and the Appropriations and Ways and Means Committees are already represented by five Members each. Any further leadership involvement might concentrate authority over fiscal policy in too few hands.

**D. Make the Budget Committees into a single joint leadership committee composed of either all committee chairs and ranking members or the Majority and Minority leaders and Appropriations and tax committee chairs and ranking members from each chamber.**

The House specifies the makeup of the Committee in Rule X, clause 1(e); there is no comparable directive in the Senate.

**Pro:**

- Would help to ensure that budgetary decisions made through the Budget Committee would be carried out by the committees of jurisdiction.
- Since both chambers would start with identical measures conference proceedings and negotiations with the President could be facilitated.
- Redundant staff work, hearings, and briefings would be reduced.

**Con:**

- Could delay agreement on a budget resolution by requiring that any differences between the bodies be resolved in committee prior to any floor action. This would be a particular problem if the House and Senate are under control of different parties.
- Could concentrate authority over fiscal policy in too few hands.

**E. Change the congressional committee structure so that committee jurisdictions are consistent with the functional totals included in the budget resolution.**

Currently, the budget resolution includes functional totals for the budget. These totals are then "crosswalked" to tie to committee jurisdictions in the Congress. This change would require that appropriations subcommittees be organized according to the budget functions as included in the budget resolution, or that the budget functions be changed to reflect the jurisdictions of those appropriations subcommittees.

**Pro:**

- Makes it easier to track the progress of the budget through the Congress; this is currently impeded because the Budget Committees focus on different numbers than the appropriations and authorizing committees.

**Con:**

- Budget functions do not tie as closely to the organization of the executive branch as current appropriation jurisdictions, so this change could substitute one form of confusion for another.
- The appropriations committees may have less flexibility to make allocations among subcommittees.

**IV. OPTIONS FOR CHANGING THE RECONCILIATION PROCESS.**

**A. Eliminate formal deadline for reconciliation legislation from the budget timetable.**

The budget timetable in section 300 of the Congressional Budget Act (codified at 2 USC 631) provides a deadline of June 15 for completion of reconciliation; in addition, section 310(f) prohibits the House from considering an adjournment of more than three days during July unless it has completed action on reconciliation legislation.

**Pro:**

- Reconciliation is generally carried out according to deadlines specified in instructions contained in the budget resolution, making the fixed date in the Budget Act timetable superfluous.

**Con:**

- A fixed deadline provides incentive for action even if it is waived or superseded.

**B. Apply the Senate's rule against extraneous matter in reconciliation bills to the House.**

The so-called "Byrd Rule" appears in section 313 of the Congressional Budget Act.

**Pro:**

- Would enable Congress to restrict the use of reconciliation as a vehicle for enacting changes in entitlements or revenues which are in conflict with reconciliation instructions. This would make House and Senate rules similar on this point.

**Con:**

- What is or is not extraneous to a reconciliation bill is not well defined. Ultimately, imposing such a restriction might interfere with the ability of the Congress to use reconciliation as a vehicle for making changes to entitlements or revenues.
- Such a rule is unnecessary in the House since the amending process is generally restricted by the use of special rules.

**C. Allow Budget Committees to write program specific reconciliation instructions.**

Reconciliation instructions are described in section 310(a) of the Congressional Budget Act.

**Pro:**

- Would allow for the budget resolution to target specific programs for cutbacks, making the vote on the budget resolution more binding.

**Con:**

- Might place too much power in the hands of the Budget Committees, at the expense of the committees having jurisdiction over these programs.

**D. Allow separate reconciliation instructions concerning changes in tax expenditures.**

Reconciliation instructions are described in section 310(a) of the Congressional Budget Act. Tax expenditures, which represent revenues forgone because of exemptions provided for in tax law, are currently not covered by separate reconciliation instructions.

**Pro:**

- Tax exemptions are the economic equivalent of spending and should be regarded as such in the budget.
- Allowing separate instructions for tax expenditures would integrate revenues more directly into the budget process.

**Con:**

- Tax expenditures are not easily defined, and revenue foregone should not be treated as identical to spending, which represents revenues collected and then dispersed.
- The tax committees can include tax expenditures in their responses to reconciliation instructions under the current system; more specific requirements are not necessary or desirable.

**E. Allow Budget Committees greater freedom to write substitutes for committees not in compliance with reconciliation instructions.**

Section 310(d)(5) of the Congressional Budget Act allows that the House Rules Committee may make in order amendments to achieve changes specified in reconciliation instructions if a committee fails to submit changes; there is no parallel provision in the Senate.

**Pro:**

- Would promote committee compliance with reconciliation instructions.

**Con:**

- The Rules Committee in the House is already empowered to allow such amendments to be in order, but has never needed to use this authority.
- The Budget Committees generally do not have the policy and program expertise to make the detailed changes necessary.
- Could concentrate authority over fiscal policy in too few hands.



- F. Allow sequestration to be targeted to programs in the jurisdiction of committees not in compliance with reconciliation instructions.**

Sequestration, a process by which automatic cuts in spending are made, is defined in the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings), as amended.

**Pro:**

- Would promote committee compliance with reconciliation instructions.
- It protects committees in compliance with reconciliation instruction from further cuts due to sequestration.

**Con:**

- Such a targeted sequestration would probably require cuts to be specified in advance by statute, since sequestration of entitlements cannot be done easily.
- Locking the Congress into an initial set of reconciliation actions would make it more difficult for Congress to make trade-offs and adjustments in reconciliation bills later in the process.

**V. OPTIONS FOR CHANGING BUDGET PRESENTATION OR INFORMATION.**

**A. Prohibit "baseline budgeting".**

This option would require that changes in spending be measured from the current dollar amount rather than from a projection of the future cost of current services, policies, or laws. Enforcement of the Balanced Budget and Emergency Deficit Control Act, as amended, is based in part on baseline changes.

**Pro:**

- Would make year-to-year changes in the budget more understandable to policymakers and the general public.
- Would encourage Congress to restrain spending.

**Con:**

- Baselines are only a construct for projecting future spending based on current laws. The increases attributed to baselines are actually generated by statutory provisions for COLAs or other forms of indexing, so eliminating only the baseline projection will not change actual spending. In fact, baselines represent a useful yardstick against which to measure future policy actions.

**B. Apply accrual accounting to unfunded liabilities (e.g., deposit and pension guarantees).**

This option would provide for the estimated current cost of specified items for which the federal government has a contingent liability to appear in the budget.

**Pro:**

- Would provide a more accurate picture of the total liabilities of the government, and would increase the probability that they could be controlled before a crisis (such as the S&L bailout) occurs.

**Con:**

- Would include items in the budget based on estimates of future cost rather than actual cost, and therefore might require current payments to meet future costs which might not occur.

**C. Sunset/zero-based budgeting.**

This option would provide for mandatory periodic review of all program authorizations, and termination of programs unless re-authorized.

**Pro:**

- Would place the burden of justification on program supporters who would have to demonstrate that a program has continuing value in order to get it re-authorized.

**Con:**

- Effective enforcement of sunset laws would necessitate automatic program terminations, some of which might be unintended and undesirable.
- It might be difficult to apply sunset provisions to tax expenditures and some entitlement programs.

**D. Performance budgeting.**

This option would require that the Congress and the Executive branch budget on the basis of expected program results.

**Pro:**

- Would change the focus of budgeting from one on dollars ("inputs") to a concentration on program results ("outcomes").

**Con:**

- Many agencies already measure the results of their activities, so additional gains from implementation of such a system might not be significant.
- Linkage between performance and the budget would be uncertain; for example, should poor performance lead to allocation of additional resources to meet the goal or should it lead to a reallocation of resources to some more easily attainable goal?

**E. Include tax expenditures in the budget.**

This option would include the revenues foregone by the federal government as a result of specific exemptions from the tax code as expenditures.

**Pro:**

- Tax expenditures are the economic equivalent of spending and should be regarded as such in the budget. For this reason, including tax expenditures in the budget would allow for more accurate trade-offs between spending and revenues.

**Con:**

- Tax expenditures are hard to precisely define, and revenue foregone is conceptually different than spending, which represents revenues collected and then dispersed.

**F. Special treatment of capital expenditures.**

The federal government operates with a cash-based budget which does not distinguish between outlays for current operations and for capital investments. In this context special treatment means allowing for depreciation or some other accounting which spreads the cash cost over the useful life of capital spending.

**Pro:**

- Outlays for investments, which promote future economic growth, should not be treated the same as outlays for current consumption.
- Spreading the cost of an investment over its useful life allows for more appropriate trade-offs to be made between investment and consumption.

**Con:**

- Cash-based accounting forces the government to acknowledge the cost of a program or project when it is initiated.

- There is no uniform and accepted definition of a capital investment, nor is there general agreement on an appropriate depreciation schedule. This makes capital budgeting susceptible to budgeting chicanery. Supporters of capital spending programs will have incentives to inappropriately place more preferred spending into the capital budget.

**G. Special treatment of trust fund expenditures.**

This option would move trust funds "off-budget". With the exception of Social Security and part of Medicare, all trust funds are included as a regular part of the federal budget.

**Pro:**

- Most trust funds are financed, at least in part, by earmarked revenues which are not transferable to other uses.
- The intent of Congress in establishing these programs as trust funds was to allow them to be independent of the annual budget process.

**Con:**

- Not including trust funds (which represent large federal programs that account for more than \$500 billion in federal spending annually) in the budget would understate the government's impact on the economy.
- Putting trust funds off budget largely exempts them from annual review in the budget process.

**H. GDP budgeting.**

This option would provide for budgeting on the basis of the impact of policies on the allocation of resources in the economy.

**Pro:**

- Would allow for more accurate assessment of the impact of policies on the economy as a whole over time.

**Con:**

- Because budgeting would necessarily continue to be based on dollars (rather than contribution to GDP, which would be provided for informational purposes only), budgeting behavior might not change.
- It might be impossible to measure the effect of individual federal activities or programs on the economy as a whole.



**I. Change the status of Government Sponsored Enterprises (GSEs) in the budget.**

This option would provide for the budgets of GSEs to be included directly in the federal budget.

**Pro:**

- The operations of GSEs are implicitly guaranteed by the federal government, are granted certain privileges that are not enjoyed by other private businesses, and are treated in financial markets accordingly.

**Con:**

- The federal budget should include only the activities of the government while GSEs are privately owned and operated. The potential for receiving federal funds is not sufficient cause for being included in the budget.

**VI. OPTIONS TO ENHANCE PRESIDENTIAL REVIEW OF CONGRESSIONAL FISCAL DECISIONS.**

**A. Make the budget resolution a joint resolution.**

The budget resolution is provided for in Title III of the Congressional Budget Act.

**Pro:**

- Involves the President directly in negotiating aggregate levels of revenues and spending at the beginning of the process.

**Con:**

- The aggregate level of spending or revenues is rarely the source of serious conflict, so this change would not resolve significant differences. If significant difference over aggregate spending or revenues did exist, a joint resolution would give the President more power to stall the Congressional budget process at an earlier stage.
- Changing the resolution to a law would likely stimulate its use as a vehicle for unforeseen purposes.

**B. Item veto.**

This option would require that the President's veto power (described under Article I, Section 7 of the Constitution) be enhanced to allow individual items in appropriations bills to be vetoed. In virtually all cases, this is proposed in the form of a constitutional amendment.

**Pro:**

- Would allow the President to veto undesirable projects specified in statutory language, and to make adjustments in the overall level of spending, without having to veto an entire appropriations bill.

**Con:**

- Appropriation bills generally involve lump sums, but do not specify expenditures for individual projects.
- Would have little effect on the overall size of the deficit.
- Would cede too much power to the President and greatly strengthen his ability to control negotiations with Congress.
- The probability that this would need to be established through a Constitutional amendment makes it difficult to achieve.

**C. Expedited rescission of appropriations.**

This option would provide for a expedited procedure for consideration of rescissions of budget authority proposed by the President in an effort to secure congressional action. Presidential rescission authority is defined in Title X of the Congressional Budget, known as the Impoundment Control Act.

**Pro:**

- Would allow the President to have greater budgetary control, but retain Congress' ability to override with a majority vote.

**Con:**

- Would cede too much power to the President by allowing him to decide which funding actions Congress would have to reconsider.
- Would have little effect on the overall size of the deficit.

**D. Enhanced rescission of appropriations.**

This option would allow the President to rescind budget authority for individual programs or activities, and allow that rescission to be effective unless a resolution of disapproval is enacted into law. Presidential rescission authority is defined in Title X of the Congressional Budget, known as the Impoundment Control Act.

**Pro:**

- Would achieve results similar to an item veto (allowing the President to disapprove specific items and adjust overall spending) without the necessity for a constitutional amendment.

**Con:**

- Would effectively require Congress to vote three times to approve projects the President objected to (to pass, to disapprove the rescission, to override a veto of the disapproval legislation) including once with a two-thirds majority.
- Would cede too much power to the President and greatly strengthen his ability to control negotiations with Congress.
- Would have little effect on the overall size of the deficit.

**E. Separate enrollment of appropriations items.**

This option would require that each individual item in an appropriation bill be separately enrolled and presented to the President.

**Pro:**

- Would achieve results similar to an item veto (allowing the President to disapprove specific items and adjust overall spending) without the necessity for a constitutional amendment.

**Con:**

- Would be cumbersome to implement since each appropriations act may contain hundreds of separate items.
- Statutory language generally involves lump sums but not specific expenditures for individual projects.
- Would have little effect on the overall size of the deficit.
- Would cede too much power to the President and greatly strengthen his ability to control negotiations with Congress.

**F. Separate enrollment of tax provisions.**

This option would require that each individual item in a revenue bill be separately enrolled and presented to the President.

**Pro:**

- Would allow the President to veto undesirable tax provisions, giving him greater control over the tax code.
- Would allow for tax expenditures to be more directly integrated into the budget process.

**Con:**

- Would be cumbersome to implement since tax legislation may contain hundreds of separate provisions.
- Would cede too much power to the President and greatly strengthen his ability to control negotiations with Congress.

**G. Expedited reconsideration of individual tax provisions at presidential initiative.**

This option would provide for an expedited procedure for reconsideration of individual tax provisions at the request of the President. Analogous to expedited rescission proposals for appropriations.

**Pro:**

- Would allow the President to single out undesirable tax provisions, giving him greater control of the tax code, but retaining Congress' ability to override with a majority vote.
- Would allow for tax expenditures to be more directly integrated into the budget process.

**Con:**

- Would cede too much power to the President and greatly strengthen his ability to control negotiations with Congress.

**H. Allow President to disapprove individual tax provisions.**

This option would allow the President to disapprove individual provisions in tax bills, and allow presidential disapproval to be effective unless a law is passed disapproving the President's actions. Analogous to enhanced rescission proposals for appropriations.

**Pro:**

- Would allow the President to single out undesirable tax provisions, giving him greater control of the tax code.
- Would allow for tax expenditures to be more directly integrated into the budget process.

**Con:**

- Would cede too much power to the President and greatly strengthen his ability to control negotiations with Congress.



**VII. OTHER OPTIONS.****A. Establish a cap on mandatory spending.**

This option would impose a limit on the aggregate growth of mandatory spending.

**Pro:**

- Would impose spending discipline and aid efforts to reduce the deficit, by encouraging Congress to examine mandatory programs and keep spending within the limits.

**Con:**

- A sequestration of funds from mandatory programs cannot be easily carried out so that program specific changes in policy and/or law would still need to be made to enforce the cap.
- Any change in payments without a change in a program's authorizing language might involve court challenges.
- Because mandatory programs tend to grow at different rates, any cap would require Congress to make trade-offs among programs.

**B. Require a specified amount of deficit reduction for mandatory spending programs.**

This option would replace the current deficit neutral pay-as-you-go process with a process that would require this process to result in a specified amount of additional deficit reduction each year. The pay-as-you-go process was established under the Budget Enforcement Act of 1990 and appears in Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

**Pro:**

- Would impose spending discipline and aid efforts to reduce the deficit.
- Would encourage Congress to examine mandatory spending programs in order to decide what changes would need to be made to reduce spending.

**Con:**

- Attempts to force Congress to take some action in the future without providing any broad prior agreement or detailed guidelines.

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**C. Establish fixed deficit targets (including a balanced budget amendment).**

This option would establish a limit on the deficit. The most commonly proposed such limit is a balanced budget constitutional amendment which would effectively require a permanent deficit limit of zero. Fixed deficit targets were also an integral part of the 1985 Gramm-Rudman-Hollings legislation.

**Pro:**

- Would impose spending discipline and aid efforts to reduce the deficit.

**Con:**

- Might lock Congress into fiscal policy options based on the deficit rather than the economy.
- Might encourage actions which lower the deficit in the current year, but increase it in future years.
- A balanced budget requirement might be subject to manipulation regarding what constituted the budget which was required to be in balance, and could encourage short-term gimmicks (as did G-R-H).
- Amending the constitution could potentially be a difficult and lengthy process.
- Balanced budget amendment would only be effective to the extent that it was implemented through enforcement statutes.

**D. Limit spending to a fixed percentage of GDP.**

This option would limit the aggregate amount of federal spending to a fixed percentage of the economy as a whole (in this case as measured by Gross Domestic Product). In most cases such a provision is part of a balanced budget proposal.

**Pro:**

- Would limit the impact of the federal government on the economy.
- Impose spending restraint on the federal government.

**Con:**

- Could encourage tax expenditures, regulations or mandates to be used as a substitute for federal spending.

- Any limitation on spending would be arbitrary, and might be inadequate for future needs.

**E. Prohibit "unfunded mandates" to state or local governments.**

This option would prohibit legislation which imposed costs on state or local governments, unless these costs were funded by the federal government.

**Pro:**

- Would prevent the federal government from requiring state or local governments to do things which it was unwilling to do or fund itself.

**Con:**

- What are called mandates on state or local governments are often essential to provide uniform protection of laws or uniform enforcement through out the country; without such mandates states might develop divergent or even incompatible systems.
- Costs associated with such mandates would be difficult to measure with accuracy.

**F. Require super-majority vote to enact tax increases.**

This option would require that legislation to increase taxes be passed only by a super-majority vote, generally either 3/5 or 2/3.

**Pro:**

- Would promote accountability in Congress for increasing taxes.
- Would encourage Congress to balance new spending with spending cuts, thereby encouraging an examination of spending priorities.

**Con:**

- Would establish a bias against considering revenues as a part of the budget process.
- Would discourage new spending.
- The meaning of increasing revenues is unclear; does it include only direct increases in tax rates or such other actions as legislation which would have the effect of stimulating taxable activities or legislation which would broaden the taxable base.

**G. Merge functions of Joint Tax and Joint Economic Committees with CBO.**

The Joint Committee on Taxation has jurisdiction concerning overall supervision of the operation and administration of the tax code, as well as to provide expertise to Congress projections of future revenues, and scoring of tax legislation. The Joint Economic Committee has jurisdiction to make continuing study of matters relating to the Economic Report of the President, and economic issues generally.

**Pro:**

- Place responsibility for all fiscal projections and reporting within a single entity.
- Placing responsibility for fiscal projections and reporting within the jurisdiction of a congressional agency provides greater insulation from partisan manipulation.

**Con:**

- Placing responsibility for all fiscal projections and reporting within a single entity would inhibit checks on their accuracy.
- Taxing committees and other committee responsible for fiscal policy might still require their own sources of technical expertise, offsetting the intended savings from this change.

**H. Require presidential budget submission by January 20.**

The President is required to submit a budget proposal each year under the terms of the Budget and Accounting Act of 1921 (codified at Title 31 USC), as modified by the Budget Enforcement Act of 1990. The statutory deadline for such a submission is currently the first Monday in February. In 1993, President Bush did not submit a formal budget document but rather submitted a document entitled Budget Baselines, Historical Data, and Alternatives for the Future on January 6. President Clinton submitted a document titled A Vision of Change for America on February 17, but did not fulfil the statutory requirement for a budget until April 8.

**Pro:**

- Requiring presidential budget submission after inauguration day places an impractical burden on an incoming President.
- Delays caused by requiring an incoming President to submit a formal budget may delay congressional budget consideration.



**Con:**

- Requiring an outgoing President to submit a budget recommendation is superfluous, since incoming Presidents have generally wanted to submit significant revisions of their predecessors budget.

**I. Limit waivers of Congressional Budget Act Provisions in the House.****1. Prohibit blanket waivers.**

This option would require that any rules of the House waived in a special rule be specified.

**Pro:**

- Would prevent the House from having to vote in favor of waiver without knowledge of what is being waived.

**Con:**

- The impact of such a provision would extend far beyond Budget Act waivers and inhibit the efficiency of the House.

**2. Require special rules waiving provisions of the Budget Act be passed by super-majority vote.**

This option would impose a requirement on the House similar to the requirement in the Senate that most waivers of the Budget Act and any appeals associated with such waivers be done by vote of three-fifths.

**Pro:**

- Would encourage compliance with the provisions of the Budget Act.

**Con:**

- Special rules generally include other provisions in addition to any waivers of Budget Act provisions. Requiring a super-majority to adopt such a special rule will force those provisions to face a more significant hurdle as well.
- Because most waivers of the Budget Act do not result in much additional cost, requiring a super-majority will impose a significant procedural barrier without a substantial budgetary impact.

**3. Allow separate vote on any waiver provision in a special rule.**

This option would establish a requirement similar to that in House Rule XXVIII pertaining to nongermane provisions in a conference report and allow any waiver of a provision of the Budget Act to be subject to a separate motion to strike.

**Pro:**

- Would encourage compliance with the provisions of the Budget Act.
- Would require that the reason for each Budget Act waiver be sufficient to be justified individually.

**Con:**

- Provisions in legislation are often delicately balanced as a single package so that striking a Budget Act waiver which protects one provision may unravel the entire legislation.

**J. Establish a permanent continuing resolution.**

This option would establish a permanent provision in law to provide continuing funding for federal programs or activities at the current rate in the absence of new funding being provided in a general appropriations act.

**Pro:**

- Would prevent shutdown or partial shutdown of the federal government from being used as a bargaining tool in budget negotiations.

**Con:**

- Would allow the President to prevent budget cuts by preventing the enactment of new funding at a level lower than current funding
- Would take away the immediacy of the end of a fiscal year as a deadline to apply pressure for enactment of general appropriations acts.

**K. Require identification of small beneficiary pools.**

This option would require that spending and/or tax legislation more clearly identify small beneficiary pools.

**Pro:**

- Would better enable Congress to identify and eliminate pork barrel projects or projects with little national interest.

**Con:**

- Congress does not always have the ability to determine the size of a beneficiary pool for entitlements or tax expenditures so that implementation could be problematic.

**The Joint Committee on the Organization of Congress  
Database of Positional Statements**

*This database was prepared by Committee staff as a tool for our Members. This is not for re-publication or attribution. This matrix is an attempt to accurately reflect the views of our witnesses but should not be used as a substitute for the actual hearing record.*

## **ISSUE AREA 2: BUDGET**

### **List of Options Proposed**

- |  |   |
|--|---|
| 1. Biennial Budget                                       | 10. Special Treatment of Capital Expenditures                         |
| 2. Multi-Year Authorizations                             | 11. GNP Budgeting   |
| 3. Multi-Year Appropriations                             | 12. Joint Budget Resolution   |
| 4. Eliminate a Layer in the Budget Process               | 13. Line-Item Veto  |
| 5. Clarify Authorization and Appropriations Process      | 14. Enhanced or Expedited Rescission                                  |
| 6. Make the Budget Committee into a Leadership Committee | 15. Establish a Cap on Mandatory Spending                             |
| 7. Prohibit Baseline Budgeting                           | 16. Limit Waivers of Congressional Budget Act Provisions in the House |
| 8. Sunset Budgeting/Review of Entitlements               | 17. Miscellaneous   |
| 9. Zero-Based Budgeting                                  |   |



Proposed: Biennial Budget

## BUDGET: 1. Biennial Budget

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Pound, William - Director, National Conference of State Legislatures	3/23, 25	
	Reischauer, Robert - Director, Congressional Budget Office	3/4, 4-5	
	Representative Bellenson	3/23, 4	
	Representative Kasich	3/25, 17	
	Representative Natcher	3/11, 16	
	Representative Spratt	3/4, 10	
	Thornburgh, Richard - Former Attorney General	6/22, 44	
Undecided	Ornstein, Norman - American Enterprise Institute	2/16, 60	
	Representative Sabo	3/25, 3	Would consider biennial budget with annual appropriations
For	Dio Guardi, Joseph - Former Representative, Truth in Government	6/29, 401	
	Bellmon, Henry - Former Senator	3/30, 21	
	Frenzel, Bill - Former Representative	1/28, 11	
	Gradison, Willis - Former Representative	3/30, 26	
	Hildenbrand, Bill - Former Secretary of the Senate	5/18, 49	
	Jones, Jim - Former Representative	1/28, 9	
	Marsh, John - Former Representative & Secretary of the Army	6/22, 138	
	Mason, David - Heritage Foundation	2/16, 61	

Proposed: Biennial Budget

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Mondale, Walter - Former Vice-President	7/1, 24	
	Representative Collins	2/4, 243	
	Representative Conyers, Jr.	6/24, 53	
	Representative Dellums	5/13, 1067	
	Representative Dunn	3/18, 50	
	Representative Emerson	4/1, 9	
	Representative Gephardt	1/26, 38	
	Representative Goss	2/4, 146	
	Representative Hutto	2/4, 26	
	Representative Kanjorski	6/16, 49	
	Representative Mazzoli	2/4, 56	
	Representative Michel	3/30, 5	
	Representative Orton	3/18, 41	
	Representative Price	2/4, 8	
	Representative Regula	6/16, 7	
	Representative Solomon	2/4, 221	
	Rudman, Warren - Former Senator	1/28, 3	
	Senator Craig	6/29, 120	
	Senator Dole	1/26, 79	
	Senator Domenici	3/30, 38	
	Senator Ford	4/1, 2	
	Senator Glenn	6/24, 63	
	Senator Kassebaum	3/16, 14	
	Senator Lugar	4/1, 9	
	Senator Nunn	6/29, 130-131	
	Senator Mikulski	3/18, 17	For certain programs only

Proposed: Biennial Budget

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Senator Roth	3/16, 31	
	Smith, Steve - University of Minnesota	5/20, 96	
	White, Joseph - Brookings Institution	3/23, 27	

## BUDGET: 2. Multi-Year Authorizations

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Representative Fowler	4/1, 25	
	Representative Torkildsen	4/1, 25	
For	Bellmon, Henry - Former Senator	3/30, 21	
	Cobb, Tyrus - Business Executives For National Security	6/29, 615	For certain programs only
	Dio Guardl, Joseph - Former Representative, Truth in Government	6/29, 401	
	Gradison, Willis - Former Representative	3/30, 27	
	Hildenbrand, Bill - Former Secretary of the Senate	5/18, 49	
	Mann, Thomas - Brookings Institution	2/16, 124	
	Mondale, Walter - Former Vice-President	7/1, 24	
	Ornstein, Norman - American Enterprise Institute	2/16, 124	
	Representative Dellums	5/13, 1067	
	Representative Gephardt	1/26, 38	
	Representative Kanjorski	6/16, 49	
	Representative LaFalce	5/4, 235	
	Representative Brown, George	3/16, 25	
	Representative Natcher	3/11, 5	Also require passage of authorizations before budget year
	Representative Obey	3/11, 20	
	Representative Orton	3/18, 41	
	Representative Sabo	3/25, 3	
	Representative Smith, Neal	6/29, 72	
	Representative Solomon	2/4, 221	



Proposed: Multi-Year Authorizations

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Rudman, Warren - Former Senator	1/28, 3	
	Senator Craig	6/29, 120	
	Senator Domenici	3/30, 38	
	Senator Ford	4/1, 66	
	Senator Kassebaum	3/16, 14	
	Senator Nunn	6/29, 130-131	
	Senator Roth	3/16, 32	
	Smith, Steve - University of Minnesota	5/20, 96	

## BUDGET:

### 3. Multi-Year Appropriations

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Representative Bellenson	3/23, 4	
	Representative Sabo	3/25, 3	
	Senator Byrd	2/2, 26	
	White, Joseph - Brookings Institution	3/23, 27	
Undecided	Ornstein, Norman - American Enterprise Institute	2/16, 60	
	Representative Price	2/4, 8	
For	Bellmon, Henry - Former Senator	3/30, 21	
	Dio Guardi, Joseph - Former Representative, Truth In Government	6/29, 401	
	Hildenbrand, Bill - Former Secretary of the Senate	5/18, 49	
	Mason, David - Heritage Foundation	2/16, 61	
	Mondale, Walter - Former Vice-President	7/1, 8, 24	
	Representative Delums	5/13, 1067	
	Representative Gephardt	1/26, 38	
	Representative Kanjorski	6/16, 49	
	Representative Kasich	3/25, 17	For some programs only
	Representative Orton	3/18, 41	
	Representative Solomon	2/4, 221	
	Rudman, Warren - Former Senator	1/28, 3	
	Senator Craig	6/29, 120	
	Senator Domenici	3/30, 38	
	Senator Ford	4/1, 66	
	Senator Kassebaum	3/16, 14	
	Senator Nunn	6/29, 130-131	

Proposed: Multi-Year Appropriations

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Senator Roth	3/16, 31	
	Smith, Steve - University of Minnesota	5/20, 96	

Proposed: Eliminate a Layer in the Budget Process

## BUDGET:

### 4. Eliminate a Layer in the Budget Process

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Mondale, Walter - Former Vice-President	7/1, 8	
	Mann, Thomas - Brookings Institution	4/20, 507	
	Murray, Hyde - Former Counsel to the House Minority Leader	5/18, 49-50	
	Ornstein, Norman - American Enterprise Institute	4/20, 507	
	Representative Bliley	5/13, 1077	
	Representative de la Garza	5/11, 327	
	Representative Montgomery	5/6, 292	
	Representative Natcher	3/11, 4, 18	
	Representative Obey	1/26, 74-6	
	Representative Sabo	3/25, 3	
	Robinson, Pete - Former Assistant House Parliamentarian	5/18, 50	
	Senator Byrd	2/2, 12	
	Senator Inouye	5/4, 262	
	Senator Mikulski	3/18, 12	
	Senator Reid	3/16, 5-6	
	White, Joseph - Brookings Institution	3/23, 71	
Undecided	Representative Dunn	3/11, 24-5	
For	Cobb, Tyrus - Business Executives for National Security	6/29, 613	
	Bellmon, Henry - Former Senator	3/30, 22	
	Brock, William - Former Senator	4/20, 25	



Proposed: Eliminate a Layer in the Budget Process

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Hildenbrand, Bill - Former Secretary of the Senate	5/18, 186	
	Jones, Jim - Former Representative	1/28, 9	There are too many layers of consideration
	Representative Brown, George	3/16, 22	
	Representative Conyers, Jr.	6/24, 54	
	Representative Dellums	5/13, 1067	
	Representative Derrick	5/13, 391	
	Representative Fowler	4/1, 26	
	Representative Gilman	5/13, 397	
	Representative Kanjorski	6/16, 49	
	Representative Kasich	3/25, 15	
	Representative Orton	3/18, 41	
	Representative Solomon	2/4, 221; 5/13, 391	
	Representative Torkildsen	4/1, 26	
	Representative Walker	3/16, 16-17	Recognizes 3-tiered process is cumbersome
	Senator Cohen	3/16, 8	
	Senator Ford	4/1, 6	
	Senator Kassebaum	3/16, 2	
	Senator Lugar	3/16, 11	
	Senator Nunn	6/29, 130	
	Zweber, Murray - Former Senate Parliamentarian	5/18, 48	

**BUDGET:****5. Clarify Authorization and Appropriations Process**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Senator Stevens	3/11, 15	
For	Mondale, Walter - Former Vice-President	7/1, 7-8, 33-34	
	Representative Billey	5/13, 1078	
	Representative Brown, George	3/16, 22-23	
	Representative Combest	4/22, 81	In certain situations only
	Representative Dellums	5/13, 1067	
	Representative Dreier	3/16, 26	
	Representative Michel	3/30, 8, 43	
	Representative Miller	4/22, 119	
	Representative Mineta	5/6, 306, 792	With some exceptions
	Representative Montgomery	5/6, 292	
	Representative Natcher	3/11, 8, 39	With some exceptions
	Representative Obey	1/26, 43	
	Representative Shuster	5/6, 307, 792	With some exceptions
	Representative Solomon	2/4, 221	
	Representative Walker	1/26, 70	
	Senator Boren	1/26, 12	
	Senator Nunn	6/29, 136	
	Senator Pell	5/13, 1054	

Proposed: Clarity Authorization and Appropriations Process

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
See note	Senator Byrd	2/2, 9, 26	There is too much legislation in appropriations bills (p. 9); however, this is sometimes necessary (p. 26)

Proposal: Make the Budget Committee into a Leadership Committee

## BUDGET:

### 6. Make the Budget Committee into a Leadership Committee

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Senator Reid	3/16, 6	
For	Brock, William - Former Senator	4/20, 25	
	Jones, Jim - Former Representative	1/28, 21	
	Representative Allard	3/16, 9-10	
	Representative Brown, George	3/16, 21	
	Representative Dellums	5/13, 1066	Would like a Committee on National Priorities consisting of leadership, chairmen, and ranking members
	Representative Kasich	3/25, 15	Would like a Joint Budget Committee
	Representative Michel	3/30, 5, 12-13	Would like a Joint Budget Committee; wary of leadership participation
	Senator Cohen	3/16, 8	
	Senator Kassebaum	3/16, 2	
	Senator Lugar	3/16, 10	



## BUDGET: 7. Prohibit Baseline Budgeting

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Undecided	Representative Sabo	3/25, 8	Entitlement laws need change as well.
For	Frenzel, Bill - Former Representative	1/28, 39	
	Representative Castle	2/4, 18	
	Representative Cox	3/18, 46	
	Representative Kasich	3/25, 17	
	Representative McMillan	6/16, 16	
	Representative Nussle	2/4, 65	
	Representative Stenholm	3/18, 3	
	Representative Torkildsen	4/1, 34	
	Senator Craig	6/29, 117	
	Senator Lugar	3/30, 12	
See Note	Representative Goss	2/4, 146	Calls for "objective cost estimates"
	Senator Brown	2/2, 52	Calls for "conservative economic assumptions"

## BUDGET:

### 8. Sunset Budgeting/Review of Entitlements

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Undecided	Reischauer, Robert - Director, Congressional Budget Office	3/4, 11- 12, 70	Prefers different times for review, depending on the program, p. 70
For	Ornstein, Norman - American Enterprise Institute	2/16, 73	
	Representative Castle	2/4, 121	
	Representative Cox	2/4, 11	
	Representative Crapo	2/4, 81	
	Representative Dunn	3/18, 50	
	Representative Fowler	4/1, 25	
	Representative Natcher	3/11, 4, 8	
	Representative Obey	1/26, 75	
	Representative Orton	3/18, 41	
	Representative Stenholm	3/18, 2	
	Representative Torkildsen	4/1, 25	
	Senator Bond	2/2, 38	
	Senator Boren	3/11, 11	
	Senator Craig	6/29, 295	With some exceptions
	Senator Kassebaum	3/16, 3	Except Social Security
	Senator Levin	6/24, 70	With some exceptions
	Senator Lugar	3/16, 10	
	Senator Reid	3/11, 23	

Proposed: Zero-Based Budgeting

## BUDGET:

### 9. Zero-Based Budgeting

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Representative Kasich	3/25, 14	
Undecided	Reischauer, Robert - Director, Congressional Budget Office	3/4, 70	This process is usually unnecessary
For	Representative Dunn	3/18, 50	
	Representative Orton	3/18, 40	

Proposal: Special Treatment of Capital Expenditures

**BUDGET:****10. Special Treatment of Capital Expenditures**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Undecided	Reischauer, Robert - Director, Congressional Budget Office	3/4, 55-57	Prefers adding information on the difference between spending on consumption and investment, p. 57
	Representative Sabo	3/25, 5	
For	Dio Guardi, Joseph - Former Representative, Truth in Government	6/29, 400	
	Representative Andrews, Thomas	6/16, 38	
	Representative Conyers, Jr.	6/24, 52	
	Representative Clinger	3/18, 24-26	
	Representative LaFalce	5/4, 235	
	Representative Orton	3/18, 49	
	Representative Wise	3/18, 26	



Proposal: GNP Budgeting

**BUDGET:  
11. GNP Budgeting**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Reischauer, Robert - Director, Congressional Budget Office	3/4, 62- 63	

## BUDGET: 12. Joint Budget Resolution

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Representative Sabo	3/25, 2	
For	Frenzel, Bill - Former Representative	1/28, 11	
	Gradison, Willis - Former Representative	3/30, 27	
	Mason, David - Heritage Foundation	2/16, 167	
	Representative Cox	2/4, 10; 3/18, 36	
	Representative Kasich	3/25, 11	
	Representative Michel	3/30, 5	
	Senator Domenici	3/4, 20	Prefers continuing resolution at prior year's levels until there is an agreement

Proposal: Line-Item Veto

## BUDGET:

### 13. Line-Item Veto

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Gradison, Willie - Former Representative	3/30, 27	
	Mann, Thomas - Brookings Institution	2/16, 28	
	Ornstein, Norman - American Enterprise Institute	2/16, 28	
	Representative Bellenson	3/23, 10	
	Representative Natcher	3/11, 9-10	
	Representative Obey	3/11, 20-21	
	Representative Sabo	3/25, 6	
	Representative Stenholm	3/18, 7-8	Favors a modified line-item veto
	Senator Byrd	2/2, 23	
	Senator Murray	4/1, 46	
	White, Joseph - Brookings Institution	3/23, 26	
For	Bellmon, Henry - Former Senator	3/30, 22	
	Frenzel, Bill - Former Representative	1/28, 11	
	Jones, Jim - Former Representative	1/28, 22	
	Marsh, John - Former Representative & Secretary of the Army	6/22, 9	
	Mason, David - Heritage Foundation	2/16, 168	
	Perot, H. Ross - Private Citizen	3/2, 10	
	Representative Allard	3/18, 8; 3/23, 29	
	Representative Crapo	2/4, 81	
	Representative Dunn	3/2, 40	
	Representative Emerson	3/2, 43	
	Representative Fowler	4/1, 26	

Proposed: Line-Item Veto

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Representative Goss	2/4, 146	
	Representative Kasich	3/25, 16	
	Representative Kim	2/4, 94	
	Representative McHale	2/4, 83	
	Representative Meehan	2/4, 78	
	Representative Michel	3/30, 7	
	Representative Quinn	2/4, 189	
	Representative Torkildsen	4/1, 26	
	Representative Walker	3/2, 41	
	Senator Craig	6/29, 280	
	Senator Kassebaum	3/2, 24	



Proposed: Enhanced or Expedited Rescission

## BUDGET:

### 14. Enhanced or Expedited Rescission

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Mann, Thomas - Brookings Institution	2/16, 28	
	Ornstein, Norman - American Enterprise Institute	2/16, 28	
	Representative Sabo	3/25, 6	
	Senator Byrd	2/2, 21, 23	
	White, Joseph - Brookings Institution	3/23, 26	
For	Bellmon, Henry - Former Senator	3/30, 22	Prefers line-item veto, but enhanced rescission is a good alternative
	Jones, Jim - Former Representative	1/28, 22	
	Representative Cox	2/4, 109	
	Representative Dorman	2/4, 227	
	Representative Hutto	2/4, 27	
	Representative Kasich	3/25, 16	Prefers line-item veto
	Representative Nussle	2/4, 65	
	Representative Orton	3/18, 41	
	Senator Cohen	3/23, 10	
	Senator Craig	6/29, 280	
See Note	Representative Natcher	3/11, 21	Should include tax expenditures and entitlements
	Representative Obey	3/11, 21	Should include tax expenditures and entitlements

Proposed: Establish a Cap on Mandatory Spending

## BUDGET:

### 15. Establish a Cap on Mandatory Spending

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Reischauer, Robert - Director, Congressional Budget Office	3/4, 12	Due to the complexity of entitlements, recommends a change in the laws
	Representative Bellenson	3/23, 2	
For	Bellmon, Henry - Former Senator	3/30, 22	
	Representative McMillan	6/16, 16	
	Senator Craig	6/29, 286	

Proposal: Limit Waivers of Congressional Budget Act Provisions in the House

## BUDGET:

### 16. Limit Waivers of Congressional Budget Act Provisions in the House

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Representative Sabo	3/25, 5	
For	Gradison, Willis - Former Representative	3/30, 30	Would prefer changing rules to concur with practice in order to prevent waivers
	Representative Bellensohn	3/23, 4	
	Representative Brown, George	3/16, 25	
	Representative Cox	2/4, 11, 110; 3/18, 36	
	Representative Kasich	3/25, 12	
	Representative Kolbe	3/18, 28	
	Representative Michel	3/30, 3	
	Representative Natcher	3/11, 8	
	Representative Stenholm	3/18, 4	

## BUDGET:

### 17. Miscellaneous Comments

NAME OF WITNESS	MISCELLANEOUS
Bell, Stephen - Former Staffer	Joint committee on the budget, 3/23, p.31
Mann, Thomas - Brookings Institution	Annually appropriated programs should be subject to reconciliation, 2/16, p. 29
Representative Andrews, Tom	Would like a commission to review pork barrel spending, 6/16, p. 37
Representative Cox	Proposes Budget Process Reform Act, which would change the concurrent resolution to a binding law, 3/18, p. 36
Representative Gekas	Would use last year budget in place of continuing resolution, 6/16, p. 47
Representative Kasich	Performance-based budgeting, 3/25, p. 13
Representative Natcher	Appropriations should not have more control over the amount of entitlements, 3/11, p. 11
Representative Nussle	No continuing resolutions; 5 to 10 year budget plan; merit pay for Congress, 2/4, p. 65
Representative Obey	Work off the President's budget, 1/26, p. 76
Representative Orton	Proposes Comprehensive Budget Process Reform Act, which requires a 2-yr, 0-based, capital balanced budget, 3/18, pp. 39-40
Republican Freshmen (47 Representatives)	Details of Republican Freshmen reform proposal: 4/1, pp. 25-27
Ribicoff, Abraham - Former Senator	Appropriations & Finance members to make up Budget Committee, 2/16, p. 14
Senator Bennett	Would require federal mandates to be of national interest and be approved by 2/3 vote, 4/1, p. 54
Senator Mikulski	To aid oversight, proposes one authorization committee & 1 Appropriations subcommittee per executive agency, 3/18, p. 12



## HEARING SUMMARY, APRIL 20, 1993

**Seven Witnesses:** Daniel P. Mulhollan, Former Senator Adlai Stevenson, Former Senator William Brock, Roger Davidson, Roger Sperry, Norman Ornstein, and Thomas Mann.

Chairman Boren commenced the hearing by stating that today was the beginning of a new series of hearings on committees. He gave a brief background on the issues surrounding the committee system. Among these are their number, structure, and jurisdiction. He outlined the future schedule of the hearings and introduced the first witness.

Acting Deputy Librarian of Congress Daniel P. Mulhollan

The first Joint Committee on the Organization of Congress, created after World War II, defined the modern committee system by reducing the number of committees, establishing written committee jurisdictions, clarifying committee procedures, and implementing a staffing system. The second Joint Committee on the Organization of Congress produced the 1970 Legislative Reorganization Act, which addressed committee procedural issues and increased the openness of the legislative process. In 1973, the "Bolling Committee" was created in the House to update the committee system. Its recommendations on staffing and multiple referrals were adopted by the House. The 1976-77 "Stevenson-Brock Committee" in the Senate achieved a degree of success in abolishing some Senate committees and realigning jurisdictions. During this same time, the Obey Commission on Administrative Review examined the management and administrative structure of the House, scheduling, and workload. The Culver Commission on the Operation of the Senate then addressed staffing issues and other matters tangential to committee organization. In 1979, the "Patterson Committee on Committees" in the House focused primarily on realigning energy jurisdiction. The 1984 "Quayle Committee on Committees" primarily addressed the Senate assignment system, but many of the limitations it imposed have since been diluted. Although prior reform panels have made significant contributions to the structure and procedures of the Congress, this set of hearings suggests that there are Members who believe there is still more left to be done.

The report by CRS provides models for reorganizing the committee system based on the number of panels, rational jurisdictional alignments, workload parity, the disparity of chamber size, or applying the organization of the Executive Branch or the Federal budget functional categories to committee structure. There are some issues integral to the committee system that are not covered in the report. They include committee assignments, bill referral procedures, staffing, oversight, and the legislative process in committees.

The Joint Committee must decide whether or not there is a systemic problem with the committee system. If the system just needs fine tuning, issues to focus on include:

- 1) adjustments in jurisdictions at the margins and points of overlap among committees,
- 2) ways to encourage committees to collaborate on subjects of mutual interest,
- 3) ways to maximize the use of Members' time spent on committee work.

If more radical changes appear appropriate, then the Joint Committee may wish to consider these questions:

- 1) How should committees and subcommittees be organized to reduce scheduling conflicts while still coping with an extensive workload?
- 2) What should the appropriate assignment limitations and process be?
- 3) What is the optimum number of panels and what should their size and ratio be?
- 4) How should the Congress organize and manage its committee system to deal with problems of jurisdictional overlap?
- 5) How should panels be organized to encourage them to give early attention to emerging problems?
- 6) How can broad policy questions be examined in a comprehensive, rather than fragmented, manner?

#### Questions and Answers

Boren: Is it correct that you have presented all these jurisdictional realignment plans without endorsing one particular one?

Mulhollan: Yes.

Boren: On each plan -- for example, the one pertaining to subcommittees of the Appropriations Committees or the one making committees parallel with the Executive Branch -- are there also parallels between the House and Senate committee systems?

Mulhollan: Yes, in most of the plans.

Boren: How many committees are in the House and Senate now?

Mulhollan: There are 22 standing committees in the House and 16 in the Senate.

Boren: What are your assumptions for the numbers of committees established under the plans?

Mulhollan: The different plans incorporate different numbers of committees.

Boren: If we made a list of all of the complaints about the committee system, the number one complaint would be that Members serve on too many.

Mulhollan: The assumptions for each plan give the number of Members serving on them.

Boren: In plan G, what would happen to the subcommittees?

Mulhollan: There could be a regulated number, by establishing a limit on subcommittees.

Boren: Are there ways to take complaints and incorporate them one at a time so that we first limit the number of committees, then make jurisdictions more parallel, and then fix the problem of multiple committees overseeing each executive agency, thereby formulating a system?

Mulhollan: Plan J limits committees and subcommittees. Its underlying assumption is to coalesce issues into each committee. Jurisdictions are fairly parallel between the House and the Senate in this plan.

Reid: The work done by the Library is excellent. It will be a great help when we reach the decision making stage. We must be sure that we address committee jurisdiction in relation to executive agencies.

Domenici: If the Executive Branch is not organized as well as it could be, would modeling ourselves after it create problems?

Mulhollan: Organizing along the same lines as the Executive Branch will result in less overlap. The question to ask is what are the principles that the Executive Branch organizes by, and are they the same principles as Congress's for organization.

Domenici: Which would be the best plan for minimizing subcommittee jurisdiction over executive agencies?

Mulhollan: I can give you the advantages and disadvantages for each plan.

Domenici: You used five different approaches. Have you given thought about what these plans would do to us by name?

Mulhollan: Yes.

Domenici: Names will be important in the final analysis.

Mulhollan: Seniority and membership will be in the final report.

Domenici: For the system based on budget functions, what is the purpose of the options?

Mulhollan: The committees listed under options can either be incorporated into the system or kept separate.

Cohen: As we look at these charts, the first premise is that the current system does not work.

Mulhollan: Not necessarily. These plans are options if it is decided that the current system does not work. If it is decided that the current system just needs fine tuning, then there are different options.

Cohen: Now we have too many committees and too much work. If we have fewer committees, will we have more work?

Mulhollan: The degree to which work will be affected under each system is a factor that should be taken into consideration.

Cohen: By folding a committee into another one, its total workload will be assumed; therefore, fewer committees will mean more work for each.

Mulhollan: Correct.

Cohen: Then, now with too many committees, are we underworked? Is it reform to fold a committee into another one and put an entire workload into a new subcommittee?

Mulhollan: Assignments could be lessened at the same time. Consolidation and trade- offs within committees should be accompanied by limiting assignments.

Cohen: Have any of these 14 options been presented before?

Mulhollan: A number of them have been since they are rational options. Those that have been looked at in the past are marked in the report.

Dunn: There are several difficulties in the committee system:

- 1) Proxy voting is an incentive to take on too much.
- 2) Committees are created to look at every aspect of an issue.
- 3) Jurisdictional overlap develops as committees try to maximize their legislative turf.
- 4) The large amount of hearings are held to protect that turf.
- 5) Pressure of the hearing schedule decreases time and value of floor debate.
- 6) The system is confusing to the public.

Potential changes that are pressure points should be looked at. For example, if there was no proxy voting, the incentive to join many committees would be gone. Large effects can come from simple changes.

Mulhollan: This report did not take procedural changes into account.

Dreier: Were there any other plans that were not included?



Mulhollan: There are others available if you care to see them.

Pryor: Are the committees listed as options classified as legislative?

Mulhollan: In some plans, they are select committees, in some cases they are legislative.

Pryor: Plans A and B have no Appropriations or Budget Committees. Where do they fit in?

Mulhollan: They are options available.

Pryor: Has it been presupposed in these plans that the 1974 Budget Act has been kept?

Mulhollan: No position was taken on the budget procedure.

Pryor: Has the number of hours spent on legislation been factored in?

Mulhollan: Yes, workload was incorporated.

Pryor: It is my impression that the Budget Committee takes the most time on the Senate floor.

Mulhollan: Information on the time committees spend on the floor can be provided to you.

Allard: Administrative committees seem to be missing from these plans.

Mulhollan: They are listed under "options" for some of the plans.

Swift: Regarding the work of the Bolling Committee, what was the rationale for allowing multiple referrals?

Mulhollan: It was connected to a jurisdictional reform that was not fully implemented.

#### Panel Presentation by Former Senators Adlai Stevenson and William Brock

##### Former Senator Adlai Stevenson

In 1975, with the support of Senate Rules Committee Chair Robert Byrd, Senator Brock and I introduced a resolution which created a Temporary Select Committee to Study the Senate Committee System. The Members of the Committee were reform minded and evenly divided between the parties. We made reorganization a non partisan labor of love for the United States Senate. We knew and could demonstrate that the Senate had to rationalize committee jurisdictions,

reduce the number of committees, subcommittees and assignments, and redistribute power and workload.

The Committee was presented with three options, and the second one calling for 12 functionally organized committees with clear cut, comprehensive jurisdictions was chosen. The Committee proposed to abolish all special, select, and joint committees because they fragment the process and diffuse responsibility. Jurisdictions were rationalized, made coherent, and updated to reflect emerging subjects of national importance. An effort was made to avoid disturbing the barons of the Senate as we wanted them on our side. In some cases, we were unable to change legislative jurisdictions, but compensated for that by giving standing committees new comprehensive oversight jurisdictions. The final reforms reduced the number of committees and the number of assignments. In addition, chairmanships were spread around by limiting the number that could be held by each Senator.

In the Rules Committee and on the Senate floor, the special interests began to work to get their committees back. Everyone wanted reform, but always for someone else. We gave up low ground as intended, but also gave up high ground. The crucial factor in achieving any reform was the strong support of the party leaders.

The Policy Committees should be streamlined and tightened up to include the chairs or ranking members, the Majority and Minority Leaders, the Speaker in the House, and a handful of Members more. They should be adequately staffed and should meet weekly to develop legislative strategies and priorities. They should be firmly committed to the protection of the committee system's integrity. They must enforce the rules and not indulge Members' whims or else you will be back here in another 16 years.

#### Former Senator William Brock

The erosion of our venture has been substantial, but the groundwork of ideas still exists. It is almost impossible to reorganize with the participation of just one body. Both the House and the Senate must reorganize together.

The organization of Congress is a disgrace and burden to those who serve in it. Members run from committee to committee, from issue to issue, and can not focus on what they are doing. The central balance of the institution can not be maintained. There are too many people serving on too many committees and that is not in anyone's interest. To serve on 11 or 12 committees and subcommittees is outrageous. To have 200 member conference committees is outrageous. The Congress has raised masochism to an art form. The organization of Congress is a threat to our national sense of community and to our institutional respect.

Reform is an imperative. It must not be done at the fringes, but as radical reform. Support of the parties and the leadership is important to have.

There are too many committees and subcommittees which hinders effective service. Committees should be reorganized along functional lines.

To have a three stage budget/authorization/appropriation process is irrational. Authorizations should not be hamstrung from above by Budget and from below by Appropriations. Have the planners fit to the budget, not the other way around. Also, the public perception of the Ethics process in Congress is awful.

The congressional reforms of the 1970's have come back to bite the reformers. Reforms do not always achieve success. Be careful of magic solutions. Do not reform just the margins, do this right.

### Questions and Answers

Boren: Senator Byrd said that the starting point for committee reform begins with deciding how many committees and subcommittees a Member should serve on. Eight has been targeted as a good number.

Brock: Too many committees creates fragmentation of time and of the big picture. It causes Members to lose their sense of perspective. Committees should be given broad jurisdictions so that they do not look at fragmented issues. There should not be too much ad-hocing. Temporary ad-hoc committees to look at a broad issue are one thing, but if you do not cut back on proliferation, no other reform will matter.

Stevenson: Policy committees are too broad to be meaningful.

Boren: What about subcommittees? Should we reduce the number of them? Should we determine and define subcommittees or just set an overall limit and allow each committee to decide its subcommittees' jurisdictions?

Brock: The second option. The House may be able to have more panels because it has more members.

Stevenson: Overall limits should be set on subcommittees, but first, get the number of committees down.

Limits on assignments to committees and subcommittees should be written into the rules. These should be extremely difficult to change. We have to be able to rely on the leadership to object to unanimous consent or other requests for waivers. Eliminating subcommittee assignments will get rid of subcommittees. Also, limit the number of chairmanships Members may have.

Boren: There is always pressure to give every committee Member his or her own subcommittee leadership slot. This will have to be dealt with.

Dreier: When he testified, Senator Rudman talked about phasing out committees. Should we phase in a plan, that would phase out committees? It will

be a political challenge to phase out chairmanships. What would be an appropriate timetable for this?

Stevenson: You have a difficult timetable because of when the Joint Committee goes out of business. Our Committee ended at the end of a Congress, so we were able to hold up the organization of the next Congress until there was reorganization. Having a reorganization plan go into effect in the middle of a Congress is ridiculous.

Brock: I don't know how you phase things in. You need a clean sweep. You are talking about initiating fundamental reform. You are going to have to make concessions.

Dreier: Do you have any advice on how to implement reforms?

Brock: This institution is in real trouble. Faith in it must be restored. Get the leadership on your side. Everyone will be happy with the finished product because the institution will be better.

Domenici: There was not public enthusiasm in the 1970's for reform. Today, however, there is. There should be a focus on avoiding duplication and replication of the legislative process. For example, appropriating each year means that there is also a new authorization even though the program is not changing. Multi-year authorizations would eliminate passing the same bill every year.

The fractured attention is not just from the committee system. Members have taken on roles outside their committee work, and spend much time on events and activities of outside organizations. This should be stopped. Also, there should be a more rational approach to jurisdictions.

Emerson: Speaker Foley, in his opening statement, said that the majority and minority parties should approach their tasks as if they were the other side. Staff ratios should allow everyone to do their work.

One of the greatest accomplishments of your Committee was to establish a 2/3, 1/3 division of committee staff between the majority and minority parties on each committee. This is not the case in the House, where the minority has an average of 24% of the committee staff slots. This is a great source of frustration and contention, and is destructive of whatever comity existed. What was the rationale behind your reform, and how has it affected the Senate over time? Might not the House follow the Senate in this regard?

Stevenson: Having the staff reflect the ratio in the body seemed like a very obvious solution so it was effected. There was not much contention.

Brock: It is astonishing that the House has not done this. Not to do so is unhealthy for the body. It just made sense to ensure that every Member had adequate staff to be able to participate rationally in discussions.



Cohen: We should simplify our lives so that we can just be legislators. It's hard to be conscientious legislators with so many other functions. Having 18 meetings between 8:00 a.m. and 5:30 p.m., as I do today, is far too many.

Phasing in a reform plan is not a workable solution.

We do need the support of the leadership, but should we shape our reform to the support of the leadership, or should the support of the leadership be shaped to it? Should we seek what is desirable or achievable?

Brock: We asked for 140% in order to get 75%. You have to ask for more and be aware of what concessions you can make without hurting the reforms.

Cohen: There is a need to see between the philosophical and the realistic.

Stevenson: We created logical reforms that supported themselves. If you go for the obvious, it will be supported because it is right.

Pryor: The people are frustrated with us. We may be closer to achieving reform than we think. We have to look at the big picture when making reforms.

Swift: The doctrine of unintended consequences and radical reform is a contradiction as one goes with the other. The more radical the change, the more radical the response, so there is an unraveling of the reform.

Brock: House organization is a mess. It is not a happy place. The problem has been incremental efforts that did not deal with substantial issues. Because of unintentional consequences, there is a need for healthy skepticism, but at the same time you need to be bold in order to get anything done.

Swift: There once was an attempt to have bold reform in the House and it failed. Although there is clamor for change, very few people identify what change is needed. We can find easy solutions to make the institution work and the public would be satisfied.

Changing jurisdictions in order to limit Members' assignments seems like a backwards way to handle the problem. There must be a more direct way to deal with assignments. Both parties in both chambers have limits, and they are ignored regularly. If you can't get the leadership and the parties to limit the number of committees Members serve on, then I don't know how you are going to do it.

Brock: If committees as presently composed are a problem, then they must be dealt with. If time is a problem, then that must be dealt with also.

Swift: If we can not get simple reforms to work, then how will elaborate ones work?

Kassebaum: The public is as confused as we are. There is a great desire for accountability and common sense. If we do not implement reform now, we will look back and realize that we missed an opportunity. We need to find the right means of changing the process to get accountability.

Holmes Norton: One way to break through the inertia may be to try the reforms on a model. Experiment on one or two committees and see what works before implementing wholesale reform. I don't think we'd get too far if we asked the House and Senate to do something very different than they do now.

Stevenson: It may not be possible to separate one committee from the entire system. By making reform rational and fair its necessity will become obvious.

Brock: It is astounding to me that Congress will reform itself in one year. We need to organize in relation to the world we live in.

Boren: Our efforts must be bipartisan. We need long term gain. Public discontent is high, but so is public understanding. There will be change, if not by us then by public action.

Panel Presentation by Roger Davidson, Roger Sperry, Norman Ornstein, and Thomas Mann.

Roger Davidson, Professor of Political Science, and former staff member of the Bolling and Stevenson reform committees.

Look at the committee structure, assignments, jurisdictions, and sizes; there have been changes over time. Document these changes and make recommendations to deal with defacto change. Nothing will substitute for the process of going through the issues and questions and finding solutions.

Begin with the following premises. There should be a moderate number of committees, for example, 12-20. There should be clarity in their workload and clear jurisdictions. Get rid of overlap and have parallel jurisdictions between the houses when possible. For each Member, there should be one major assignment in the House and two in the Senate. Keep political salability in mind, but do not use it as the only measure.

Any proposed changes will meet resistance. Because of the difficulty of these kinds of changes, be bold in the initial planning. Take a reform you feel you can support and work with. Support of the leadership is crucial. Emulate the Stevenson Committee. Do not just overhaul at the margins, but make reform politically realistic.

Roger Sperry, Director of Management Studies of the National Academy of Public Administration

A study done by the Academy found that basic reforms in Congress and the Executive Branch are needed if meaningful national policy changes are to occur. Our recommendations rest on the central premise that each branch must have the appropriate internal capacity to engage the other on overriding, long-term national problems, and improve its capacity for comprehensive and consultative policy development.

Committee jurisdiction is having an effect on federal agency management and implementation of policy. For the EPA, for example, there are 34 Senate and 56 House committees and subcommittees claiming jurisdiction over it. As a result, legislation is often complex, with priorities that are difficult to identify.

How legislation is treated by the congressional budget process provides another example of how jurisdiction affects policy, in cases where budgetary politics dominate policy development and program implementation. Jurisdiction over agencies can be so splintered that no single committee looks at a program or agency in its totality.

We recommend that both houses of Congress develop broad policy expertise, focus legislative and oversight responsibility, reduce the conflict resulting from committee jurisdictional overlaps, and strike a more productive balance between the value of redundant committee involvement and the requirements of effective decision making.

Norman Ornstein, American Enterprise Institute, and Co-Director, The Renewing Congress Project

The goals of the Bolling Committee are the same as those of today and every other time there has been a reform effort. We must ask what it is that we want Congress to do. There are two fundamental building blocks: set priorities and act upon them, and make Congress a deliberative body.

The committee system is the support system of the deliberation process. The size of committees must be reduced. This means reducing the number of assignments and the number of available slots. You can not set priorities when Members are dealing with fractured time and issues. The number of committees must also be reduced. This would entail realignment of jurisdictions. More teeth should be put into ad hoc mechanisms; the ability is needed to deal with issues that fall in between committee jurisdictions. Also, the committee process must be made more efficient through restructured hearings and staff systems.

The assignment system is the most vexing problem. The Stevenson-Brock Committee reduced the number of assignments, then back sliding began immediately. You can not yield to the whims of individual members. Simply putting limitations in the rules is not enough. Make it harder to waive the rules;

require floor action or unanimous consent to receive a waiver. Limit the number of assignments and the number of available slots.

The House should write the sizes of committees into the rules. It needs real numbers. Also, write in an overall number of slots on committees. Provide a little leeway, but establish a real cap.

Consolidate jurisdictions into a smaller number of committees with broader based memberships and jurisdictions. The sensible folding of committees will give clout to certain committees. Broader bases will make committees more vibrant. Committees without legislative jurisdictions should be done away with. Bring their issues substantively into committees that can both hold hearings and act on legislation.

Thomas Mann, The Brookings Institution, and Co-Director, The Renewing Congress Project

The key to committee reform is to avoid under- or over-reaching. Under-reaching is failure, not doing enough. Over-reaching is doing so much that committees will become a Member's life.

Do not abolish the Appropriations Committees. They are the one aspect of Congress that works. They may need adjustment, but they do not need to be dismantled.

The democratic critique must be reconciled with the Republic's needs. People are mad and want change, but do not know what changes they want. Find ways to please them without sacrificing the institution.

Questions and Answers

Spratt: Would you comment on the different committee system proposals prepared by CRS?

Ornstein: You can have too many committees, but you can also have too few. You need to find a balance. You need a reason for each committee. Focus first on limiting schedules. You do not want too narrow a base and committees with narrow clienteles. You want broad bases to deal with the issues that come up. Also, I don't think that we need parallel committee systems; it is interesting to look at, but it can not and will not be done.

Spratt: In the House, too few committees would not work because there are too many Members. Issues would get put on the back burner because committees would each have too much jurisdiction. Also, there has to be the right number of committees for Members to be able to develop expertise, and to be able to participate meaningfully in the legislative process.



Mann: Consolidation can go too far. The 1946 Act went too far in consolidating committees, so that within a few years Members began to change the structure of the system. Since then we have come too far.

Holmes Norton: Reforms should seek to streamline workload. Committee staff should be in proportion to jurisdiction. Although the staff members of the Committee on the District of Columbia are great, the Committee should have fewer staff.

The Senate reform regarding the consolidation of the Committee on the District of Columbia with other committees has worked because the House Committee on the District of Columbia does all the work. We hold the hearings and the Senate sends their staff to attend. Putting committees together to draw a particular membership is harmful to certain committees; the Committee on the District of Columbia, is an example. Members might mix their political views with the business of the District. Reduce the size of the District Committee, and reduce its staff, but don't mix us with other Members. Let the District Committee wither away and die. We could streamline by taking away the time Congress spends reviewing every law passed by the D.C. Council and every line of our budget.

Dreier: Are there any past proposals from your reform effort that are relevant to the House, especially in the area of committee procedure?

Davidson: The proposal to ensure adequate minority staffing. This has worked well in the Senate, and the principle of 2/3, 1/3 staffing could be extended to the investigative staff in the House.

Ornstein: That worked in the Senate because it had bipartisan consensus. Through associate staff, the so-called S.Res. 60 staff, there was a tremendous expansion of staff. We went overboard.

Other relevant past proposals are to cut personal staff and eliminate proxy voting.

Davidson: Associate staff grew because younger Members could not get access to staffers. That is not the case anymore. Committee Members have access to committee staff.

Dreier: Would you care to comment on the proposals from CRS?

Sperry: They reflect a combination of the past and the present issues. Both need to be kept in mind. Future issues need to be kept in mind. Future issues such as information technology, communities, and human investment need to be accounted for in jurisdictional alignment. Look to the future in crafting jurisdictional language, and plan for emerging issues.

Davidson: Any plan needs to be worked out in some detail to see where committees can be consolidated. There is no formula for success that can be followed to the letter. Use the proposals as a reference to draw from. You might

want to pay particular attention to plans D and H. The House and Senate do not have adequate organization over health care issues. You might want to create an ad hoc or new committee to deal with health issues.

Mann: Plan K is closest to what we have been suggesting. The House should consolidate some jurisdictions. In addition, we would do away with joint committees.

Dreier: Mr. Mann and Mr. Ornstein, last time we met you said you would research the discharge petition. Do you have any comments on it?

Mann: You will have to invite us back again to discuss that.

Ornstein: Getting back to the broader sense of deliberation, popular passions should not be used to decide issues. Mechanisms are needed to keep Congress from being pushed to a vote prematurely or pushed at all. You need enough checks and balances to provide for debate on issues.

## HEARING SUMMARY, APRIL 22, 1993

Five Witnesses: Representative Dan Glickman, Representative Larry Combest, Representative Dan Rostenkowski, Representative Jan Meyers, Representative George Miller.

Vice Chairman Dreier commenced the hearing by stating that this is the first of six scheduled hearings on the committee system, at which committee chairs and ranking members will testify. He stated that all issues related to the system will be examined, not only partisan ones. However, House Republicans are interested in a 2/3, 1/3 division of committee staff between the majority and minority parties on each committee, as was achieved in the Senate through the reforms of the Stevenson Committee. In the House, minority party members receive an average of 24% of committee staff. On some committees the percentage is worse. He submitted a letter from Republicans into the record urging the Joint Committee to adopt a 2/3, 1/3 division of staff between the parties.

Representative Dunn remarked that she also supports the two to one ratio for committee staff.

Representative Dan Glickman

Stated that he came before the Joint Committee in two capacities: as Chair of the House Permanent Select Committee on Intelligence, and a nine term frustrated Member of Congress.

The House has a silly and unrealistic committee structure that desperately needs to be modernized. There are too many turf issues, with committees trying to determine which has jurisdiction over particular issues and trying to protect their jurisdictions. Unlike in the private sector, Congress has no system to assure accountability. Committees blame each other for holding up legislation.

Remarked that he perceived three main problems:

1) No one is in charge of major legislation referred to committees. There are too many multiple referrals, and bills get lost in a morass of committee jurisdictions. The lines of committee jurisdictions are drawn too loosely, resembling gerrymandered congressional districts.

2) Members serve on too many committees. Why? Because other than the Committees on Energy and Commerce, Ways and Means, and Appropriations, committees have diminished jurisdictions and clout. Thus, Members have to stretch themselves to find opportunities for influence wherever they can. Power is too focused in three or four committees; this is another reason why caucuses have proliferated.

3) Power is too diffused. The Speaker's control is weaker than it should be. It is like pulling teeth to get committees to act.

Recommended ending the practice of joint referrals, unless the Speaker personally intervenes. Sequential referrals could be allowed on a need basis.

Divided issues cause problems. For example, we don't have fish inspection in this country largely because of turf battles. Several House committees claim a piece of the issue, so nothing gets done. The issue of health care is not adequately fitted into the committee structure. The same is true for financial regulation: the Banking Committee handles savings and loans, the Energy and Commerce Committee handles securities, the Agriculture Committee handles the futures market, and the Ways and Means Committee handles the regulation of the Treasury Department. There is constant sparring among these committees. Also, the issue of product liability and tort reform is also split, so very little gets done. In the private sector, this would never be allowed. A responsibility would be given to one entity that could move on it.

Use common sense to realign committee jurisdictions. Realign jurisdictions based on functions, not the history of an issue. Jurisdictions must be clear and unequivocal. Some committees could be abolished and replaced with subcommittees that would be much more powerful and influential.

#### Specific recommendations included:

1) Combine all issues related to financial institutions and instruments in the House. The issue is also split in the Senate, although not to the same extent.

2) Combine all domestic social problems into one committee. Failure to adopt meaningful welfare reform is attributable to the current jurisdictional split.

3) Combine the Committees on Agriculture and Natural Resources. Consider also merging the Committee on Merchant Marine and Fisheries, to form a committee on domestic resources. This recommendation would affect a committee I serve on.

4) Create a separate committee on health care, or give the issue exclusively to Ways and Means or Energy and Commerce. Otherwise, the battle of the titans will continue.

5) Merge defense and foreign policies. They are now so related, so it only makes sense to combine them.

6) Consolidate trade issues into one committee, possibly Ways and Means.

7) Eliminate the Committee on the District of Columbia, and make it a subcommittee of the Committee on Government Operations.

8) Consider what to do about the Committees on Small Business; Science, Space, and Technology (which I serves on); and Veterans' Affairs. They are popular committees, but handle very little legislation. They scramble to find work sometimes.

Remarked that he would not address the Budget and Appropriations Committees, preferring to focus on the authorizing committees. Nevertheless,



expressed support for Senator Kassebaum's idea to give appropriations jurisdiction to the authorizing committees.

We need to work towards the day when every Member serves on only one committee, but a meaningful, powerful committee.

The debate over select committees is related. Representative Hall is correct. No one committee focuses on hunger issues. Change is needed to assign the issue to one committee, for example, the Committee on Agriculture.

Regarding the Intelligence Committee, asserted that for a variety of reasons it is unwise to have a Joint Committee on Intelligence. First, although some believe that it would protect classified information, most unauthorized disclosures of information come from the Executive Branch. Second, the leaders have made sure that there has been diversity in the selection of Members for the Committee; with a joint committee, this may not be the case. Third, there is no more reason why the authorization of the intelligence community should be done by a joint committee than the authorization of agricultural or other issues. Fourth, the oversight system works well now. Lastly, the founding fathers did not want joint committees; they wanted separate House and Senate committees. Noted that he did not disapprove of changes to improve matters, but that a joint committee would not be an improvement.

If the Foreign Affairs and Armed Services Committees were combined, the Intelligence Committee could be folded in as a subcommittee; subcommittees would have a great deal more clout and power.

In conclusion, we need to reorganize the committee structure in order to deal better with the problems of the world. We are organized now like we first were under the Legislative Reorganization Act of 1946, yet issues have changed over the past 50 years. The private sector does self analysis and where it determines that it is not organized to sell a product, for example, it reorganizes. But the nature of turf is so dominant; we are representatives of the folks back home not protectors of committees.

### Questions and Answers

Dreier: What should be the maximum number of subcommittees each committee could have?

Glickman: Ways and Means could be used as an example. It has six, all vested with very significant jurisdiction, and they are adequately staffed. There could be six or seven on each committee.

Dreier: What thoughts do you have regarding scheduling conflicts?

Glickman: Fewer committees will produce fewer conflicts. With modern software, we should be able to schedule without conflicts. Also, with Members serving on one, maybe two, committees, conflicts will be reduced.

Dreier: Your private sector examples should serve as a model for us.

Glickman: I feel very strongly about this. A system for specific accountability is needed for an organization to survive. Accountability is often not clear here, and the systems often are not in place.

Dunn: In the area of scheduling, I would like a schedule of three weeks on, one week off, like the Senate has. Regarding combining committees, are there any pressure points to talk powerful people into combining issues?

Glickman: We need to stop talking in terms of turf and personality, and focus the debate on the substantive issues that people understand.

Hamilton: As you state, we can't approach the question in terms of "how it protects me", but rather how does it affect the institution. Suppose we do come up with a bold restructuring of the committee structure, as you propose. Politically, could we get it passed?

Glickman: We would need to phase it in over two to three Congresses.

Hamilton: And if we did phase it in, could we get the votes?

Glickman: Yes, if presented as a substantive issue change.

Hamilton: Are you comfortable with the way the House handles classified information? We have a very helter skelter system of handling classified information.

Glickman: I generally agree. This is why in the longer term we need to combine the Foreign Affairs, Armed Services, and Intelligence Committees. We Members of the Intelligence Committee think we are strict guardians of intelligence information.

Hamilton: Your impression is that we can improve the handling of classified information?

Glickman: Yes, although most breaches come from the Executive Branch.

Emerson: How can we be at the one place we need to be, rather than run between three or four places? Could there be a master schedule for the House? The leaders of the Joint Committee decided we would have a fixed schedule for hearings, and we work around this. Would this be too complex for the House?

Glickman: Master scheduling makes some sense, and we could do a better job in this regard. However, it is probably not possible to completely avoid this problem. Sometimes I am supposed to be in so many places, that I don't go anywhere.

You need to look at all the problems in the country and decide which committee will deal with each. In the Hunger area, no one was dealing with it so we needed to create a Hunger Committee. Unfortunately, it did not have legislative jurisdiction.

Emerson: Part of the trouble is that we have a three day work week for floor activity, and committees meet on those same three days. The busiest time for the full House is also the busiest time for committee meetings. What is your opinion of a mandatory five day work week?

Glickman: Anything that structures our time better is positive.

Allard: I agree with a lot of what you are saying. One of my concerns is appropriations exceeding authorizations. Is this good practically?

Glickman: Mr. Combest will address this.

Allard: Do you feel that we have the grass roots support in the districts for tough changes, for example, term limits on committee members?

Glickman: Yes, if sold as a way to do the public's business better. I'd stay away from term limits on committee chairs; they are not needed. Jurisdictional realignment is needed to better deal with the impact of issues.

Allard: How do you feel about Congress exempting itself from laws that are applicable to the private sector?

Glickman: In general, we should be subject to the same laws everyone else is.

#### Representative Larry Combest

Observed that the large size of the Intelligence Committee has some disadvantages. It complicates scheduling committee activities and makes deliberations more cumbersome and time consuming. This is especially problematic for the Intelligence Committee, because of the sensitive, complex, and sophisticated nature of the information involved. Members who miss meetings can not take home information, adversely affecting their ability to keep up with matters and possibly the quality of oversight. Also, a smaller committee has less risk of leaks.

Stated that there should be the same number of Democrats and Republicans on the Committee. This had been the goal of the House when the Committee was created, to achieve bipartisanship in oversight of intelligence. This arrangement has

worked satisfactorily in the case of the ethics panel. If the majority party leadership can not accept parity, I propose a 13 member committee with a 7-6 split between majority and minority party Members. This is essentially the arrangement on the Senate Intelligence Committee, which has 8 Democrats and 7 Republicans.

More importantly, the rotating membership of the House Intelligence Committee inhibits effective oversight and prevents the development of any institutional memory by the Members. The initial reason for the rotation -- that Members might become co-opted by the intelligence community -- is groundless. At a minimum, the term limitation should be raised from 6 to 8 years, but I urge consideration of a longer term, or removing the limitation altogether.

Finally, I am concerned with the problem of appropriations in excess of authorizations. Appropriations not provided for in authorization bills, or in excess of amounts authorized, force the intelligence community to have to go through difficult non-statutory reprogramming procedures. This burdens the ability of the intelligence community to manage its budget and to deal promptly with high-priority matters. While the statutory situation may make it worse in the intelligence area, the problem is not unique to the area and needs to be dealt with. Perhaps the Rules Committee should grant fewer waivers for appropriations measures containing unauthorized appropriations. Perhaps the problem is another argument for those proposing that we do away with the separate appropriations process and give responsibility for appropriations to the authorizing committees.

### Questions and Answers

Dreier: What are your thoughts on a Joint Intelligence Committee?

Combest: Under the present situation, I do not support the idea. It would probably be impossible to bring House and Senate Members together, because of our schedules. If we served on fewer committees, then a joint committee could be looked at.

Allard: What is the one thing we can do to best improve the House and Senate committee operations?

Combest: It is hard to choose one; there are so many important things that could be done. But, primarily we need to look at the time we spend on so many committees and subcommittees. We crunch all our work into three days, and it is too hard to get everything done. There is duplication, and perhaps we could reduce the number of committees and subcommittees. Being stretched in so many directions is the one thing we need to focus on.

Allard: I think that eliminating proxy voting will eliminate absenteeism. Do you allow proxy voting on the Intelligence Committee?



Combest: No, and it works very well. I am vehemently opposed to proxy voting on the Intelligence Committee, and its elimination should be considered for all committees.

Lugar: I agree with your term proposal for the Intelligence Committee. The subject matter and complexity require Members to have some continuity. The counterargument is that it is useful to have as many Members as possible with an intelligence background, so understanding of discussions on the floor is enhanced. Nevertheless, I support allowing a longer service on the Committee, or no service limit at all.

Why do you oppose the merger of the House and Senate Intelligence Committees? Since matters all need to be discussed in the same room at the same time, it seems to me that there is utility to a joint committee. Everyone could thrash out the issues at the outset so we would not have a conference problem. What if there was a 15 member House-Senate committee?

Combest: As you propose it, the idea could be workable. My biggest concern is the time one dedicates to this place. Under the current structure with Members serving on so many committees, it would not work. With fewer committees or assignments, I could support a joint committee overwhelmingly.

Swift: Your term limit comments are valid in the larger perspective.

It keeps coming up that we should restructure committee jurisdictions because we have too many assignments. I don't think that this is true. People don't, under current rules, have to serve on so many committees and subcommittees and they don't need to seek waivers to exceed the assignment limitations. It is absurd to restructure jurisdictions to reduce assignments. I will continue to make this point.

Hamilton: Should the Intelligence Committee be made a major committee? Why not make it a full, permanent committee?

Combest: I agree that it should be a major committee, and it should be a permanent appointment.

Hamilton: How do you feel about how the House handles classified information? The Intelligence Committee does not worry me, other committees do. In the Senate, there is a much more unified way of handling information than in the House.

Combest: I think that anyone getting access to intelligence information should have to follow the same structure as we do on the Intelligence Committee.

Dreier: Mr. Glickman proposed merging the Foreign Affairs and Armed Services Committees, and later making Intelligence a subcommittee of this combined committee. What do you think of this proposal?

Combest: You should put all those jurisdictional issues into one committee. I don't have a problem with making the Intelligence Committee a subcommittee of the combined panel.

Dreier: Could the relationship between the House and Senate Intelligence Committees be improved, or is the relationship a good one?

Combest: I think that it is a good one. But, we have to deal with both the Senate Intelligence and Armed Services Committees in the conference process. This creates somewhat of a problem.

Dreier: You also serve on the Small Business Committee. There are a lot of proposals in this area. Dr. Mann and Dr. Ornstein have proposed combining the Committee with the Banking Committee. What do you think of this?

Combest: The Small Business Committee has narrow jurisdiction over the SBA, and I don't have a problem with the proposed combination of committees. Small business may be better served and have a better impact on policy than currently.

#### Representative Dan Rostenkowski

Remarked that the standard against which committees must be judged is whether or not they serve the interests of the House. Committees seem to have become ends unto themselves, rather than means to an end.

During my experience as a Member of the committee that assigns Democrats to committees, I have been concerned with the manner in which Members are appointed to committees and the types of Members we elect to committees. Too often the process of electing Members to committees is a popularity contest in which a Member's background, views, and politics are not taken into account in trying to construct a committee that adequately represents the whole House. Let me be blunt: the most popular Members are not always the most effective.

Committees have become arenas for advocates rather than forums for discussion, deliberation, and decision. The House is not well served by a committee system that is loaded with advocates of particular viewpoints. The process of selecting Members for committees should mitigate against this.

Committees have grown in size over the years, and the increases have not helped the House do a better job of policy making. Members are spread thinner. The institution would be well served by a reduction in committee sizes, but individual Members desiring assignments would feel aggrieved. Which is more important? I also think that the proliferation of legislative service organizations and issue-specific caucuses has exacerbated this trend towards Members as advocates. Advocates should not be based within the Capitol complex or funded with House funds.

I am also concerned about the amount and quality of oversight work done in committees. Members seek the glamour of legislation rather than the tedium of oversight. Can't we do better than this?

Regarding jurisdictions, I'm sure that we can all point to areas of jurisdictional overlap or confusion. For example, jurisdiction is not clear in the area of Federal guarantees to enhance quasi-private activities. However, there is no more potentially explosive issue relating to the reform of Congress than jurisdiction. This one issue doomed the work of the last two reform efforts. My advice to you in this area is "go slow." If there is a real problem with jurisdictions, make changes. But do not make changes because jurisdictions do not conform to some intellectually elegant model. The standard of proof that there is a real problem must be very high. The valuable work of the Joint Committee could fail solely as a result of broad changes in committee jurisdiction.

Offered specific recommendations to address identified problems:

- 1) Reduce committee size, and prevent future increases, by creating a number of slots to insure that all Members have at least, but not more than, 2 committee assignments each.
- 2) Limit each Member to two subcommittees per committee.
- 3) Establish relatively small, autonomous, and semi-permanent bodies within each party caucus to make committee assignments, to reduce popularity as a factor in the assignment of Members to committees.
- 4) House Rules could require annual oversight reports from the committees with a specific requirement that recommendations for improved programmatic administration be included, as well as a review of the results of previous recommendations.

### Questions and Answers

Dreier: We share your goal of trying to decrease the number of committees and subcommittees. What do you think of the proposal by Dr. Mann and Dr. Ornstein to shift responsibility over trade to Foreign Affairs?

Rostenkowski: I worry about having all committees involved with taxation issues, functioning independently. We need one central group to look at exactly what revenues are for, as Ways and Means does. Also, Ways and Means is a lot more cautious than other committees.

Allard: Do you have any thoughts on the value of joint committees?

Rostenkowski: I am aware of proposals to eliminate joint committees. I think it would be a big mistake, because they save money and duplication of efforts. I don't see joint committees as a big problem.

Allard: Regarding the area of administration, for example, security and printing, could we combine them and have a leadership committee or council to take care of all administrative matters?

Rostenkowski: If this would curtail expenses and could be implemented, I have no problem with it.

Lugar: I appreciate your view that there should not be more than 2 committee assignments.

Rostenkowski: When I first came here, Members got 1 major committee assignment. They never got 2 assignments, unless they were not major; Members could have 1 major, or 2 minor assignments. If in the next Congress you moved from your 2 minors to 1 major, you gave up the minor assignments. What started to happen was that a Member would be on 2 minors, get a major, and keep one of the minors. Then custom took over. Now we even allow temporary assignments. Every time there is a suggestion to someone with a temporary assignment to get off because we have found a Member to serve permanently, an excuse for why the Member won't get off is offered.

Lugar: In the Senate, on the Republican side, when you arrive you pick up where things have left off, picking up any available committee seats. I'll have to give some thought as to how to make the assignment process less of a personality contest.

Rostenkowski: Prior to 1975, Democrats on Ways and Means constituted the Democratic Committee on Committees. The Speaker suggested only who should serve on the Rules Committee. The Democrats on Ways and Means were not elected based on popularity. We would look for balance on committees, including geographical; it was not a popularity contest. There were zone arrangements regarding who got on committees. We can not have people cheerleading in committees for their parochial interests, but need balance.

Lugar: This is very important and the Joint Committee should look at this carefully.

Swift: What I heard you say is not that we need to eliminate committees, but that we need to reduce assignments and sizes. How did committees deal with the problem of jurisdictional overlap prior to allowing multiple referrals?

Rostenkowski: There really was not that much overlap before the Bolling reform. In certain cases, the Speaker would intervene.

Swift: I have even heard that a committee chair would walk across the hall and chat with another chair if he was treading close to his jurisdiction. There were not quite as much turning the bright lights on as there is with sequential referrals. Because Members could not go to the Rules Committee or to the Speaker to solve problems, things were more often worked out informally.



History would suggest that massive reforms wouldn't work, but certain minimalist things could be done. Maybe what we could do is eliminate multiple referrals.

Rostenkowski: I think that it is unfair that if you get a sequential referral, the Speaker gives you a strict time limit because leaders have got a schedule. This happens in the tax area, and it irritates many Members of my Committee.

Obey: I agree with a number of your observations regarding committee size. I also agree with you regarding jurisdiction over Federal guarantees.

In the budget area we have established a lot of hoops, because we don't have the same committee that both raises revenue and spends money. I'm biased, because there was one committee with both responsibilities in my state legislature. What would you think if we merged the jurisdictions of the Appropriations and Ways and Means Committees, if also the direct spending authority now outside the process was pulled in?

Rostenkowski: I like the appropriations process. What I worry about is what happens to all other authorizing committees. Do we divest tax authority to them?

Obey: No. The finance committees would determine actual spending levels and the revenue needed to meet them. Now, so many committees have direct spending authority, creating a tremendous duplication of functions.

Rostenkowski: I like having separate and autonomous functions in the House. We have the cushion of being able to say, can we sell this to the other committees. I have not looked into the issue of combining functions; I would like to do this and get back to you.

Hamilton: Does the conference committee process work for you, with respect to the committees you deal with? One concern we hear is that committees should be parallel between the chambers.

Rostenkowski: The House Ways and Means and Senate Finance Committees are nearly comparable, except in the area of health. Senate Finance has to deal with both Energy and Commerce and Ways and Means.

Hamilton: Are there Senate Rules you find particularly egregious?

Rostenkowski: The idea that one Senator can delay legislation that he/she is particularly opposed to but that the country needs I find unbelievable. A majority should be able to function.

Hamilton: Are staffs too large?

Rostenkowski: Yes. I think that we could do with less staff, but I have a problem with this. 300 billion dollars of reconciliation is in my Committee, which

is a big responsibility for staff. But, everyone does have to prove his or her worth.

Hamilton: Is it your impression that reaching agreement or consensus is harder today than 20 years ago?

Rostenkowski: Yes. The Federal Government has more issues to look at today than 20 years ago. We have gotten more involved with the lives of the people.

Hamilton: Is there any connection with sizes of staffs?

Rostenkowski: No, there is no connection with staffs in this area.

Hamilton: You recommended reducing committee size. How can this be achieved -- by rule, by law, by caucus?

Rostenkowski: By attrition I think. We need leadership that is willing to say no. It has become a popularity contest to serve on the Steering and Policy Committee, and to get your Member on the committee he or she wants. So, maybe we need a rule on sizes so that there will not be much elasticity. Now we have committees that can't get quorums and can't function.

Emerson: I agree with you that we don't spend enough time on oversight. We should take more time to do things more thoroughly and with greater oversight. Why do we do things so quickly, for example, President Clinton feeling that he has to have a program within 100 days?

Rostenkowski: You're preaching to the choir. Since I have taken over Ways and Means, I have never put out a schedule. My Committee has never said we have to do this by this date.

Emerson: The overall political process needs reform. Often we are dealing more with the perception of problems than with reality. We need to find some way to deal with reality.

#### Representative Jan Meyers

Asserted that the most important role of government today is preserving the ability of businesses to thrive and prosper. Not only does business provide jobs, services, and products for our citizens, but, to a large extent, businesses carry out the bulk of our social problems. In developing recommendations for reorganizing Congress, look at all of your options for changing the committee structure with the vital need to promote and protect business, especially small business.

I am in strong support of reform and propose two major changes in the organization of committees. First, committees should be downsized. Five subcommittees, or even four, should suffice for most committees. Second, the

Committee on Small Business should be retained, with its legislative and investigative jurisdiction substantially and appropriately broadened.

In recent years, the Committee has reduced its funding and maintained a 2 to 1 Democratic/Republican staff ratio. One of the things I have tried to accomplish since become ranking member is further reducing the number of staff and funds spent for minority committee operations. Reform has already begun on the Small Business Committee.

Reform that eliminates the only committee in Congress that provides a forum and focus for the problems of small business, our Nation's job supplier, is not a positive step. Our Nation's 20 million small businesses employ almost 56 percent of the private work force, contribute 44 percent of all sales, and are responsible for 47 percent of GNP. They produce twice as many innovations as larger firms. Unfortunately, the small business community, much like the Small Business Committees, has a lot of cheerleaders but few real die hard supporters.

Gave several examples of the important work of the Small Business Committee. Then explained that to perform even better, the Committee should have an expanded jurisdiction, to include urban and rural economic development and human resources issues.

Although we have the unique opportunity to fix the way we do business, our idea of reform has to be more than making some expedient cuts in a few small committees. A reform proposal that does not trim the large, powerful committees and the spending-driven ways of recent decades is no reform at all.

Highlighted possible reforms, including:

- 1) Merging the Committee on Ways and Means, the Joint Economic Committee, and the Joint Taxation Committee;
- 2) Merging the Committee on House Administration with the Joint Committee on Printing and the Joint Committee on the Library;
- 3) Transferral of jurisdiction over travel and tourism and urban and rural economic policy development to the Small Business Committee, renaming it the Committee on Small Business and Economic Development.

Regarding the work of the CRS on jurisdictional realignment options, I understand why the Small Business Committee is not included in all the models, such as the budget process driven ones. However, certain plans in which small business is given short shrift do not reflect the real world. In the real world, government makes business and the free enterprise system possible, and business makes taxes possible.

Eliminating a committee like Small Business in lieu of making real, substantive changes in committees in which most money and staff is concentrated is simply tinkering around the edges. Rolling up your sleeves and delving into those issues is the only way to develop a meaningful reform proposal.

## Questions and Answers

Lugar: Commented on the subchapter S issue regarding taxation of small businesses, and the reconciliation bill that will go to the Committees on Ways and Means and Finance. How does the Small Business Committee in the House or Senate impact on this issue, which may cause termination in small business jobs all over the country?

Meyers: All those not incorporated pay taxes as individuals. Two-thirds of those affected from the increase in the tax rate from 31% to 36% are small businesses. For some, this will mean whether or not they can keep their doors open.

Lugar: Could you comment on the policy of small businesses regarding mandated benefits?

Meyers: The majority of small businesses want to offer mandated benefits, but they don't because of fear of future costs. We need more stability in pricing, then small businesses would offer health care benefits. If they did, it would decrease medicaid benefits.

Emerson: Do you feel that it is important to have a separate Committee on Small Business, or could its jurisdiction be merged with a larger committee so long as its jurisdiction stayed in focus?

Meyers: It is imperative to have a separate committee. To relegate small business to one of 35-40 responsibilities of a larger committee, as done in some of the CRS plans, is unworkable.

## Representative George Miller

We classify some trees as crops and others as resources, and have divided the issue between the Agriculture and Natural Resources Committees. I am not sure why. Clearly we need some reorganization if the committee system is going to work.

Remarked that he could not add to what the Committee had already heard. We need to consolidate committees, and we need fewer assignments. I don't concur with the idea of a few super committees. Also, there are some current jurisdictional arrangements that can't justify spending the tax payers' money.

We need an opening up of the floor process. When I first came to Congress, Members had a pretty good chance of getting an amendment on the floor. They had the right to go to the floor and get a debate. Now, because of structured rules, it is not as easy. This a source of great discontent for the minority, who represent as great a number of constituents as we do. Members should be able to get an up or down vote from their peers. The floor should be an open process for debate and



amendment. Closed rules used to be reserved for tax bills, and we hammered out other kinds of issues over a series of days. This has all gone by the wayside. The Senate has a worse process; they need a supermajority to close debate. We need to open up the process so Members have an opportunity to represent the concerns of citizens who want them to make national policy. While it is terribly important to consolidate and restructure the committee system, it is also necessary to focus on the floor.

I really lament the absence of meaningful, serious debate leading to an up or down vote on an issue. This does not mean that every amendment should be allowed, but clearly we can not continue to do what we are doing now. Often there is only 10 minutes of debate and Members don't yield because there is not enough time. Also, Members often read prepared statements and do not engage in real debate.

Lugar: I am intrigued that with 435 Members, extensive debate could take place when you first came to Congress. What guidelines should we follow in opening up the amendment process?

Miller: The 5 minute rule is really not a problem. The problem is overriding it. We rush through things because we are always in a hurry. In the Senate it is different, because the majority does not get to work its will.

Lugar: You made a good point regarding your own jurisdiction. Mr. Rostenkowski said that changing jurisdiction is more than we should tackle. But if we were to try to change jurisdiction, should we strive for the main objectives of our Government, such as defense policy, agricultural policy, etc.?

Miller: Mr. Glickman talked in terms of making jurisdictions functional. How do we look at the world? We deal in terms of military issues, monetary issues, etc. We can't deal in terms of boundaries; we need to look at issues comprehensively. In foreign policy, economic and defense issues are so interrelated. Should they be together? In the area of natural resources, maybe there should be an ecosystems committee.

Emerson: We have heard the suggestion that the way to break the impasse with the minority regarding closed rules would be to give the minority a certain number of amendments on every bill. What do you think of this idea?

Miller: There certainly ought to be a presumption that the minority looks at its 50 or so amendments and then decides that 3 or 4 are very important and the Minority Leader conveys this to the Speaker. I wouldn't go so far as to say it should be a guaranteed right, but that there should be the presumption.

Emerson: I think that moving further to restrict debate would be wrong and I'm glad to see that you agree.

Miller: What is going on today is a travesty regarding the history of free speech and equality in this Nation.

Hamilton: What is the right number of committees for the House?

Miller: I don't know. We have to start from the other end. We need a House that is functional, not efficient.

Hamilton: Would you end up with fewer committees?

Miller: Clearly fewer.

Hamilton: With a larger number in the House than in the Senate?

Miller: It is hard to say.

Hamilton: What is your feeling on sizes of staffs?

Miller: There could be less staff.

Hamilton: What is your relationship with the Senate regarding conference committees?

Miller: The Senate chooses not to reauthorize issues so as not to address policies. The Senate is engaged in a luxury that we can not let the House be victimized by. Also, in the Senate many Members serve on both authorizing and Appropriating Committees. This is a serious problem from the perspective of House authorizing committees.

Regarding joint referrals, one committee should not be able to hold a bill in committee if it is not ready to vote on it. I recommend a time limit for referrals so one committee can't hold things up.

## HEARING SUMMARY, APRIL 27, 1993

Three Witnesses: Senator Patrick Leahy, Senator Frank Murkowski and Senator John D. Rockefeller IV.

Chairman Boren opened the hearing, stating that the Joint Committee was continuing with a series of hearings on the committee system during which over forty committee chairs and ranking minority members will be testifying. He then introduced Senator Leahy.

Senator Patrick Leahy, Chairman, Agriculture, Nutrition, and Forestry.

The legislative process has been slowed down by differing committee jurisdictions. The 1990 Farm Bill, for example, had 104 House conferees from eight different committees while the Senate sent five Members all from the Agriculture Committee. Aside from the overlapping jurisdictional problems in House-Senate conferences, there are also overlaps within the Senate committee system.

The Committee on Agriculture, Nutrition and Forestry overlaps with other Senate Committees in the areas of forestry, food safety, and financial instruments. In forestry, the Agriculture Committee has jurisdiction over forests that are not within the "public domain" while the Energy Committee has jurisdiction over Federally owned forests. Some have argued that to eliminate jurisdictional overlap, all forestry should be concentrated in the Energy and Natural Resources Committee. This would, however, create a public lands western bias in forestry matters at just the time that timber production is shifting from publicly owned lands in the west to privately owned lands in the east. A review of the comparative activity between the two Committees also indicates that the Energy Committee deals with far more legislative matters than the Agriculture Committee. If the Senate wishes to equalize workload, it would argue for consolidating all forestry jurisdiction in the Agriculture Committee.

Jurisdiction over food safety is shared by the Committees on Agriculture, Labor and Human Resources, and Commerce. While the Commerce Committee only has authority over fish inspection, this split jurisdiction on food safety has prevented action on a comprehensive fish inspection system. The Agriculture Committee has jurisdiction over the inspection of livestock, meat, and agricultural products; home economics; human nutrition; food from fresh waters; and school nutrition. In addition, the Committee has consistently received referrals related to the use of pesticides. The Labor Committee's jurisdiction over food safety is derived from the reference to "public health" in the Senate Rules. When the Senate deals with the "Delaney Clause," forbidding cancer causing chemicals in pesticides, it will involve both Agriculture and Labor. In the 101st Congress, Labor received 374 referrals to Agriculture's 199 referrals. To equalize workload, food safety jurisdiction should be consolidated in the Agriculture Committee.

The final area of jurisdictional overlap involves financial instruments. Since at least the beginning of this century, the Agriculture Committee has considered bills related to the commodity futures market. Until the mid-1970's, this was limited to agricultural commodities. Recently, this field has expanded to include a wide array of products from metals to pollution rights. The Agriculture Committee has continually been called upon to investigate the issues of the futures market. These inquiries have resulted in the Committee reporting several major bills covering futures markets in all commodities across the board. Some conflicts have arisen between Agriculture and the Banking Committee because of their interest in securities and financial markets. These conflicts have generally been worked out in a cooperative way, and I believe that this will continue. I would strongly advise against fragmenting jurisdictional responsibility for futures markets among individual Senate committees that oversee specific commodities. This would make coherent policy-making impossible. Jurisdiction for the futures market should remain in the Agriculture Committee which has a proven record of accomplishment in this area. This would also maintain a parallel structure with the Appropriation's Committee as the Commodity Futures Trading Commission is funded in the agricultural appropriations bill.

The Senate Rules related to reconciliation matters are operating in a way that undermines the ability of authorizing committees and the Senate to properly consider authorizing legislation. In this year's budget resolution, there are instances where House authorizing committees are instructed to make changes in authorization law, but corresponding Senate authorization committees are not given the same instructions. Such unequal reconciliation instructions present the problem of the House's budget resolution containing legislative language that is not in the Senate's budget resolution. The reason for this is that the "Byrd Rule" considers legislation reconciled to Senate authorizing committees to be extraneous if the account the proposed legislation affects is considered "discretionary." Therefore, Senate authorizing committees can not change a law to achieve savings. I would like to see a procedure developed which permits the Senate authorizing committees to include authorizing legislation in a reconciliation bill. This procedure would only apply if the budget resolution has directed the House's authorizing committees to make changes in authorizing laws.

Finally, a Senator should not be allowed to serve on any more than three committees, whether they are select committees, "A" committees, or "B" committees. The one exception to this would be regarding a committee like the Joint Committee, which is of a short-term, temporary nature. Right now we are serving on more committees than we can do justice to. By limiting assignments, we will also see duplicate subcommittees disappear. Through this, we can fix both the institution and its image.

### Questions and Answers

**Boren:** We are caught in a maze of procedure involving overlapping jurisdiction, conference committees, and committee assignments. Your comments make eminently good sense.



Dreier: There is common concern about overlapping committee jurisdiction. It is one problem that everyone recognizes. An idea to combat this has been the use of joint committees. What are your thoughts on a Joint Committee on Intelligence?

Leahy: There is a danger that such a committee might become too closed-off without the checks and balances offered by two separate committees. The Joint Committee on Atomic Energy was abolished for this reason.

Dreier: The Chairman of the House Intelligence Committee felt that the structure of the two Houses would prevent Members from being able to find time to meet together. He would, however, support the idea if the committee system was streamlined and assignments were cut so there would be more time to give to each committee.

Leahy: The Intelligence Committee is the committee where it is the most difficult to delegate the work. One idea that should be considered would be to excuse the Chairman and Vice Chairman from their other duties, without the loss of seniority, so that they can do the kind of oversight that is necessary. Another plan would be to excuse a percentage of the committee from their other assignments and have them work only on intelligence. Again, there should be no loss of seniority during the 1-2 year period that this occurs in.

Dreier: What about the proposal to join the Armed Services and Foreign Affairs Committees and have Intelligence as a subcommittee?

Leahy: When I came to Congress, intelligence matters were handled by the Committee on Foreign Affairs and the oversight was not considered adequate. I like the idea of a separate Intelligence Committee.

Dreier: How does the Agriculture Committee get by with such a small staff?

Leahy: Agriculture has the smallest staff and budget of any "A" committee in the Senate. The staff works for the whole Committee. They are not assigned to tasks for individual Members. The Members also serve with dedication to hard work; they did not join the Committee for glory. It is legitimate to say that both parties should have adequate staff. The problem is not too much staff, but too much overlap and too many committees and subcommittees.

Dreier: Should there be a parallelism between House and Senate committees?

Leahy: I wish we could. The Agriculture Committee has had difficulties having to confer with numerous House committees.

I have been here for nineteen years. The Senate was a smaller, better place then. We could talk to each other and there was time to study and legislate. There was less partisanship. We should get back to that. Members of Congress should have control over the agenda and the issues, not interest groups. The proliferation

of committees and subcommittees and assignments has produced a diminution of power.

Boren: I agree with your statements about the Intelligence Committee and the number of committee assignments. With so many people wanting to serve on Intelligence, telling them that they must step down from other assignments, for a year or two, will whittle out those who do not really want to be there. Congress has less power because of fragmented time and jurisdictional overlap. It is preventing us from acting in a forthright way. Consequently, we are playing a diminished role in policy-making.

Three standing committees is a reasonable number to serve on. What about subcommittees? They have been abolished on Intelligence and now there is better attendance at the full Committee level. In addition, time is spent only on the things that are important enough to warrant the time of the full Committee. Some committees, like Appropriations, however, will need subcommittees. Should we have fewer subcommittees with broader jurisdictions? Do you favor reducing subcommittees? Should we say that every committee can have three subcommittees, and the chairs in conjunction with full committee Members can decide on their jurisdictions?

Leahy: I would want to see less subcommittees. I cut one from Agriculture this year and I would love to cut more and change jurisdictions. We have too many subcommittees. We can cut back on them on almost every committee and we are going to have to do just that.

Boren: Should we try wherever we can to rationalize jurisdictions so that executive agencies and programs reside under the jurisdiction of only one committee? The argument against this is that the relationships that develop are too cozy and some fragmentation is good. I argue that when twenty committees have oversight, no one does it. There does not seem to be a problem with the relationship between the Agriculture Committee and the Agriculture Department.

Leahy: I would like to see the committee system organized that way. One thing to keep in mind, however, is that the Executive Branch has overlapping jurisdictions also. It may be difficult to match the Executive and Legislative Branches perfectly. Right now, though, it is crazy having a cabinet member testify in front of every committee and subcommittee. If we can't reduce subcommittees, we should encourage more joint meetings of our committees.

#### Panel Presentation by Senator Frank Murkowski and Senator John D. Rockefeller IV

##### Senator Frank Murkowski, Ranking Minority Member, Veterans' Affairs

The goal of congressional reform should be to increase bipartisan cooperation wherever possible. The Intelligence Committee is an example of a committee

structured for the majority to confer with the minority. Every committee has a chair and vice-chair. The Intelligence Committee installed the practice of requiring the signatures of both on all papers. There were never party line votes because all objectives were worked out together. The majority and minority shared the budget and audit staff. The staff served Members regardless of their party affiliation. To have two separate budgetary systems creates unnecessary duplication. Bipartisanship should be stressed.

The Veterans' Affairs Committee also has a spirit of bipartisanship. The staff works together. In reality, war veterans did not serve their country as Democrats or Republicans, therefore their needs should not be decided based on partisanship.

There is an idea to put Veterans' Affairs into Armed Services, but there is a danger that the immense oversight required of veterans issues would be lost. The Veterans' Affairs Committee should also be retained because we are at a critical stage of health care reform. The needs of veterans are going to have to be accounted for in any health care system.

In regard to oversight, many committees are not structured to deal with it. Sharing staff helps. We can not be afraid of the political ramifications that measures like this will produce. Furthermore, the jurisdiction of House and Senate committees should be aligned. For example, the Senate Intelligence Committee does not have jurisdiction over tactical military intelligence, but the House Intelligence Committee does. In the Senate, the Armed Services Committee has jurisdiction over this account. This causes problems when it comes to oversight, as well as in conference, where the Senate Intelligence Committee can't talk about the overall intelligence budget with its House counterpart.

Cohen: Should the Intelligence and Armed Services Committees be merged?

Murkowski: I am uncomfortable with that idea. It seems reasonable to have a separation of strictly intelligence entities and the military with its own intelligence. If the system is not broken, we should not fix it.

Senator John D. Rockefeller IV, Chairman, Veterans' Affairs

The Veterans' Affairs Committee was established because it was recognized that the complex and costly range of veterans' benefits and services, the vast majority of which are under the purview of a single Executive Branch entity, should be dealt with by a single committee. The desire then to have a Senate Committee with a parallel structure with the already established Veterans' Affairs Committee in the House remains valid today. The parallel and congruent jurisdiction of the two committees could serve as a model for other House and Senate committees. Any proposal to change the system, unless it were done in directly parallel ways in the House and Senate, could easily result in the sort of split and overlapping jurisdiction between the two Houses that so many believe is counterproductive to effective legislative activity. Also, the Senate committee is committed to bipartisanship.

The mission of the Veterans' Affairs Committee and of the Department of Veterans' Affairs is to ensure that we as a nation honor the commitments to those who served us, often in times of need, and often at great sacrifice to themselves. To fulfill this fundamental obligation, we as a nation have established a wide range of veterans' benefits and created the Department of Veterans' Affairs to administer those benefits. The Veterans' Affairs Committee oversees the VA to ensure that the job is being done in ways that Congress intends. This task is an enormous job and the key reason supporting the maintenance of a single Veterans' Affairs Committee.

The present activity on health care reform is a key example that demonstrates the utility of the current system. VA's health care system is immense and, as such, is deeply involved in many aspects of our nation's present approach to meeting the health care needs of our citizens. The question of the role that the VA system is to play under health care reform is a very complex and politically sensitive one.

Before creation of the Veterans' Committee, veterans issues were handled in part by the Committee on Finance. Veterans had to deal with the Finance Committee on a particular issue where the Committee would not give them the time of day. It was a disastrous experience. Only in the last 10 minutes of the session did we pass important legislation. We are a small, but good committee.

### Questions and Answers

Cohen: In dealing with the committee system, should we go to ground 0, or leave the system the way it is. The question is whether or not to have fundamental reform, and on this we have heard different opinions. We have not resolved the debate over whether to have major or minor reform. How many committees do you serve on?

Rockefeller: I serve on 2 A and 1 B committees.

Murkowski: I serve on 2 A committees, and 3 select committees. It used to be 6.

Cohen: Do you agree that much of our time is spent careening from committee to committee rather than focusing on in-depth analysis of issues?

Rockefeller: In part to address these issues, the leaders instructed us to give up an assignment. It turns out that I was the only one who followed the leaders' instructions and got off one committee.

Cohen: Do you agree that there are too many committees?

Murkowski: Up to a point. Do you want to eliminate committees or pinpoint responsibility? The Armed Services Committee enjoyed a portion of the savings from the Intelligence Committee; the funds were not returned to the Treasury for savings. But, if you want to restructure, go back to the beginning and do a major restructuring.



Cohen: You could in fact create a subcommittee of the Armed Services Committee dedicated to intelligence. There are problems with this, however. First, the Intelligence Committee is not partisan. Second, the Intelligence Committee is not parochial in nature, which can not be said of our military policy. There are legitimate reasons for not making the Intelligence Committee a subcommittee of the Armed Services Committee. I could make a case for merging the Armed Services and Foreign Affairs Committees. We haven't decided exactly how we will do this, whether to start at the ground and build up.

As we become more specialized, we have to resist the temptation to be specialists in every bill on the floor. We have yet to contend with this issue in any of our discussions. When an Armed Services Committee bill was on the floor, we had over 100 amendments because we all think we are specialists. In the good old days we took a bill to the floor and in a short time it passed. Not today. We have young, bright staffs who load us up with amendments and we attempt to amend bills over which we have no expertise. We have got to start deferring to the people making themselves expert in a field.

Murkowski: Most committees have majority and minority chiefs of staff. This is like having two city managers. Also, we need to look at the way we run the Capitol. The Architect is appointed for a term of somewhere between life and the hereafter. We need professional management to come in and run this place.

Cohen: We are deluding ourselves if we go through a fundamental restructuring of committees so that we can become expert in areas of particular committees but then go to the floor with a whole sheet of amendments. This defeats the purpose of specializing in fewer committees. We need to have the leadership or someone tell us when we are going too far as individuals, and we need to defer to the experts. It is frustrating to me to report Armed Services' legislation then go to the floor and have to spend days and days dealing with over 100 amendments.

Rockefeller: I'm not inclined to agree with you regarding major reform, because I have not looked at the bigger picture that you all have looked at. So, I can't say that I'm just willing to tinker at the edges. I have defended the Veterans' Committee and am committed to retaining that.

Cohen: Then I had misunderstood your statement. With respect to modest changes at the edges, you were referring only to the Veterans' Committee.

Boren: Do we need to reduce assignments? The average Member serves on 12 committees and subcommittees. We have heard a lot about our time being fractured. Especially subcommittees tend to justify their existence. Some suggest placing in rules strict limits on committee and subcommittee service. I think subcommittee rules may be even more important than committee ones. If we only reduce committees, but then create another 100 subcommittees, we are no better off. How would you feel about a rule limiting assignments that could only be

waived by the full Senate, for example, allowing 3 committee and 5 subcommittee assignments?

Rockefeller: I would favor it. I think that would be the way to go. We need to be able to justify each subcommittee.

Boren: I note with interest that the Veterans' Affairs Committee has no subcommittees. On the Intelligence Committee we had no subcommittees. This helped us. Members only have a certain amount of time. If time traditionally used for subcommittees is given to full committees, say 10 hours, it could be more constructive. Perhaps we could have a 3 committee, 3 subcommittee assignment rule, with Senators allowed to serve on 1 subcommittee of each of 3 committees. This would automatically depopulate unnecessary subcommittees. We'd leave it up to each committee to decide the jurisdiction of its subcommittees, but we'd establish the limit.

Rockefeller: It is very hard for a committee chair to say no to a junior Member who wants to serve on subcommittees.

Boren: With fewer unnecessary subcommittees, we could achieve staff reductions as well, because some staff who serve there would not be needed in the core, full committee staff. Mr. Murkowski, do you agree with the need to reduce assignments?

Murkowski: Yes, I do. And it could be done without being detrimental to seniority.

Rockefeller: I feel strongly about what you said about 2 committees plus 1 B committee. As Mr. Cohen said, developing expertise takes a lot of time. I really advocate the idea of Senators becoming more expert in an area.

Boren: We have gotten away from this. We swing at every ball. If we had 3 committees, and 3 subcommittees apiece, it would greatly enhance our ability to schedule. We could group committees, so that certain committees and their subcommittees only could meet on certain days. We would not have to run so much from committee to committee. Also, it would help with parallel jurisdictions.

Rockefeller: I don't want to leave it on the record that it will always be possible to serve on only 1 subcommittee of a committee.

Boren: There would have to be some flexibility. If you serve on no subcommittees of one committee, then you could serve on two of another. Under the Stevenson Committee reform plan, there was agreement to limit each Senator's assignments to 8 committees and subcommittees, but now we average 12. We could make the whole Senate vote if someone is seeking more than the required number of assignments. A reduced assignment limitation would take care of the problem of too many subcommittees, because some would depopulate.

Rockefeller: I hear that some subcommittees never meet, but work through the full committee.

Boren: We should look carefully at committees like Intelligence and Veterans that are non-partisan and see if we can draw some lessons. The staff of the Budget Committee also in non-partisan. Maybe it won't work on all committees, but we should try to draw as many lessons as possible from these examples. Most committees will need partisan staff, but we should try anything we can to encourage bipartisanship. The increasing partisanship greatly disturbs the American people.

Mr. Rockefeller, some have suggested we create a health care committee because jurisdiction over health care is fragmented. How do you respond to that?

Rockefeller: I think that the system should remain as it is. No committee on health is needed. We have two main committees that deal with health depending on how you draft legislation. But, the issue should stay as it is in the current system.

Boren: We will probably end up drawing upon the best concepts of each of the jurisdictional realignment plans presented by CRS to form our plan. We hope to complete our deliberations by the end of the summer.

Rockefeller: I am troubled because there are not more than 30 or 35 Members that are expert in health policy, just as the chambers are poised to do massive overhaul of the health system. I am not sure how this fits into your discussions, but this is a deep concern.

## HEARING SUMMARY, APRIL 29, 1993

Witnesses: Representative Tony Hall; Representative Bill Emerson; Representative Gerald D. Solomon; Representative John Dingell; Representative Gerry Studds; Representative Herb Bateman; Representative Bill Clay; Representative John Myers; Representative Henry B. Gonzalez; Representative Jim Leach.

Panel Presentation by Representative Tony Hall and Representative Bill EmersonRepresentative Tony Hall

Urged the Joint Committee to find a way to fulfill the mission of the now-defunct Select Committee on Hunger. The Hunger Committee was created in 1984 to coordinate hunger-related issues. Hunger issues cut across the jurisdictions of ten standing committees; until the creation of the Select Committee on Hunger, there was no single committee that looked at the whole picture.

The focus, leadership, and "special institutional voice" of Select Hunger will be lost as many authorizing committees deal separately with hunger issues. If you don't focus on the issue, the fire will go out. For example, regarding domestic hunger, jurisdiction is split among three committees: Agriculture, Education and Labor, and Ways and Means. This type of fragmentation makes it nearly impossible to address the issue of domestic hunger in a comprehensive manner.

Further, hunger and similar human needs issues take a back seat to the flashier issues that committees with hunger jurisdiction also handle. Human needs issues need their own standing committee so they do not compete with other issues.

The Joint Committee has two options regarding jurisdiction over hunger-related issues: One, rethink the current categories for the legislative or authorizing committees. A Committee on Human Needs, for example, would address certain matters currently handled by Agriculture; Banking, Finance, and Urban Affairs; Education and Labor; Ways and Means; and Foreign Affairs.

Second, consider the idea of a new Select Hunger Committee, possibly a joint committee. While some argue that creating committees that have no legislative authority makes no sense, I found that not having to report legislation and not having to deal with a fixed legislative schedule gave the Select Committee on Hunger considerable flexibility. Despite the good work Select Hunger did, there was never any real debate about the quality of our work or about the wisdom of having select committees.

The best approach would be to revise current jurisdictions and establish a new legislative Committee on Human Needs. The next best would be to create a Select Committee on Human Needs, without legislative jurisdiction but with a mandate to provide the focus, leadership, and coordination on these issues that is missing from the legislative committee structure.



### Representative Bill Emerson

In some eyes, the elimination of the select committees may have been a success; others, including myself and Mr. Hall, would disagree. Asserted that the process - the means through which the select committees were eliminated -- was a failure. I am optimistic that the Joint Committee will recommend and Congress will pass a big and bold reform package. At the same time, we should undertake reform in a careful, deliberative manner.

The abolition of the select committees was the result of arrogance on one side of the aisle and an intemperate thirst for victory at all costs on the other.

Select committees should exist until the problems they deal with no longer exist, or until changes are made in the committee structure so that the problems are adequately dealt with. In the case of the Hunger Committee, hunger did not go away, nor did the House make provision to deal adequately with the issue.

The sane and logical course of action for the House would have been to reauthorize the select committees for a year and then let the Joint Committee decide their fate. Expressed embarrassment at the way the abolition of the select committees was handled. Regardless of the merits of the issues, it is clear that the process failed. Reforming the committee system is about enabling us to do our work more effectively; it is not about issuing press releases back home to say that we have saved the Congress from itself.

On the matter of the Hunger Committee's responsibilities: 1) requested that the statement prepared by the Hunger Coalition be entered into the hearing record; 2) noted that hunger issues cut across the jurisdictions of several committees; 3) stated that Congress should consider the creation of an Ad Hoc Committee to deal with hunger issues; and 4) supported the incorporation of hunger issues into standing committees with legislative jurisdiction.

### Questions and Answers

Dreier: An ad hoc committee would have more of a temporary nature to it. Would you, Representative Hall, be in favor of it?

Hall: Yes.

Dunn: How would you fold into a new select committee the hunger jurisdictions of the other committees?

Emerson: Plan F of the CRS jurisdictional reorganization plans CRS appears to be the one that would accommodate all the hunger issues. Hunger is not just food; it's transportation and structure. The issue has to be addressed in the context of welfare reform. If there had been a place to put hunger jurisdiction in the first place, there would have been no need to create a Select Hunger Committee.

There's always been tension between the Hunger and Agriculture Committees. I always saw to it that transcripts of Hunger Committee meetings were sent to the Agriculture Committee Members.

I was deeply concerned over the violation of comity and process in the way the select committees were abolished. We shouldn't proceed with the whole reform in the way we handled the select committees. That would be an absolute disaster.

Hall: We're not very bold; we try to do everything. Snail Darters are as important as hunger. We never move the agenda or the committee structure forward. All the standing committees should be cut 5 or 10 percent. There's also the question of the character and personality of the Members of Congress who would serve on the committees.

#### Representative Gerald D. Solomon

Set forth some of the issues he believes the Joint Committee should address. These include:

- 1) setting a yearly legislative agenda for consideration of major legislation;
- 2) moving to a 5-day work week;
- 3) rationalizing committee jurisdictions, redistributing workloads more equitably, abolishing joint referrals of measures, and reducing the number of Members' committee and subcommittee assignments;
- 4) abolishing proxy voting and one-third quorums for mark-up;
- 5) establishing a more "systematic" approach to committee oversight; and
- 6) "restoring the delineation between the authorizing and appropriating functions."

Noted that the legislative system was never intended to be completely efficient, but "we can do a better job of setting priorities, delegating responsibilities, and legislating in a conscientious and deliberative fashion."

Deliberative democracy and a more efficient legislative system need not be in conflict with one another, and existing inefficiencies in the present system have been responsible for the decline in deliberative democracy. This is because Congress does not establish clear priorities and timetables for committee and floor action at the beginning of a Congress, and then must short-circuit the democratic process in order to rush legislation through the subcommittee, committee, and floor stages.

Noted that as a Member of the Rules Committee, he sees this happen frequently. Often a committee's timetable for mark-up and reporting, the most crucial stage of a committee's process, is perfunctory and rushed. The minority party is often scorned if it should demand its three-days for filing minority views.

Observed that it is not unusual in this session for a report to be filed the day before or the day of the Rules Committee meeting on the bill, and for the bill to be

brought to the floor on the next day before the printed report has been available to Members for a day. This has happened in seven of the first 10 rules granted by the Rules Committee this session.

Further compounding this anti-deliberative trend, the Rules Committee has increasingly been issuing so-called restrictive rules which limit the amendment process on. In 10 out of the first 10 rules issued in this Congress, only a limited number of amendments were allowed: in two of those instances, no amendments were permitted, and in two others, only one amendment was allowed.

In sum, there has been a decided shift from attempting to improve legislation through rules deliberation to protecting those bills against any serious challenge, no matter how flawed the bills might be. The scrutiny of the democratic process, which is what real deliberation is, is being sacrificed for political expediency. This is not a partisan critique; Drs. Ornstein and Mann have also testified on the need to limit restrictive rules. A final element in this decline of deliberative democracy is the frequency with which we waive a third three-day requirement: that conference reports be available for three days before they are voted on.

Concluded that the Joint Committee has a responsibility to consider the implications of such anti-deliberative practices on the overall legislative process and the resulting policies they produce. One of the greatest services this Joint Committee can render is to reemphasize in its final report the wisdom of adhering to those rules and reforms enacted by your predecessor reform committees that were designed to ensure a more rational, informed, and deliberative process.

### Questions and Answers

Dreier: If you were chairman of the Rules Committee, how many restrictive rules would you impose on Congress?

Solomon: In certain cases, restrictive rules are appropriate, for example, on defense authorization bills. On a bipartisan basis, where there is agreement on the need to eliminate duplicative amendments, Democrats and Republicans should be able to sit down and write a restrictive rule. This happened, for example, on SDI. Otherwise, there should be open rules.

Dreier: Patterns of violations of the rules raise another question. Should there be a super majority required to waive the rules?

Solomon: I support that idea.

Dreier: Some have proposed that the Rules Committee take on some administrative duties similar to the Senate Committee on Rules and Administration. What do you think about that?

Solomon: I'm not enthusiastic about the idea. More oversight could be handled by the Rules Committee, and it could conduct some oversight into administrative matters. But Rules shouldn't be involved in full-time administrative duties.

Dunn: We need to find pressure points where reforms could be made to work, for example, the need for a five-day work week. What do think about eliminating proxy voting on markups?

Solomon: Uncertainty of the work schedule makes life difficult, especially for Members from western states. On the subject of proxies and quorums, some pieces of legislation I have sponsored have gone before 50 different subcommittees and committees. First, you need to reevaluate the structure of the committees. Then you could go about eliminating proxies and quorums.

Dunn: If there were open rules, how much debate would we get that would not be worthwhile?

Solomon: In the last Congress, on only one occasion was the open rule process violated. In that case, Members just didn't want to deal with the bill and over 100 amendments were introduced. Most Members are respectful of the process. In this Congress so far, under open rules, there have never been more than 17 amendments introduced on a single bill.

Swift: The House has a problem with deteriorating comity. Most Republicans feel that they are abused by the processes of the majority. Republicans have a hard time understanding the frustrations of the majority party. I doubt that there is anything structural that this Committee can do to change the human problem.

Solomon: We can't legislate comity. We have to have cooperation. We may be able to get some agreement over the problem of open and restrictive rules.

Swift: You have to start by granting the other person the sincerity of his/her frustrations.

Emerson: With respect to open rules, what do you think about a plan that would let the minority have a certain number of amendments, depending on the magnitude of the legislation.

Solomon: I would refer to my prepared statement. Most bills should come to the floor either under an open rule or under suspension where there would be a two-thirds requirement for passage.

Walker: A lot of our work products reflect the use of proxy votes, so there is little participation in the committees. Do you believe this undermines the process?

Solomon: That is a real problem. Most Members do not have real input into legislation because of proxy voting and quorums. In the past, there has been the



feeling among Democrats that they liked that system, but that seems to be changing. I believe that committee chairs want to go to a more open rules process.

#### Representative John Dingell

Noted recent criticisms of Congress and calls for reform; these complaints are not new. There is some truth in these criticisms and it is important to act on valid criticism. Likewise, it is important to recognize that some criticisms derive from the messy, untidy, and conflicted nature of a large and diverse nation, and that they merely reflect the design of the Founders.

Asserted that the House is inefficient by design. The House is where all the people, through their representatives, come with all their needs, demands, aspirations, generosity, weaknesses, and goals. Issues are complex and sensitive and the inefficiencies of the process cannot be solved by some sophisticated form of system analysis, or by looking for the elusive bottom line.

The charge that Congress is captured by special interests misunderstands that these so-called special interests are the American people. One Member's special interest is often another's constituent. Issue complexity derives from the factual difficulty of an issue, from the intensity of the emotional and philosophical nature of the issue, or from the explosive combination of both. And while it is true that such a situation leads to gridlock in the sense that a decision may be avoided, this is by no means caused only by a structural or procedural defect. Rather it is often because there is no broad consensus among the American people as a whole.

Agreed that the House has defects but doubts that the basic problems are structural or procedural. Procedures and structures merely shape debate and no quest for perfect procedures will make any of the hard policy choices easy. Warned that careful thought should be given to wholesale restructuring and procedural reform. Two principles should guide the effort: first, do no harm; second, if it ain't broke, don't fix it.

With respect to reforms of committee jurisdiction and structure, supported the committee system as the best structure to process legislation. Any changes should be designed to enhance rather than weaken the system, and should help the committees function more effectively.

With respect to the Energy and Commerce Committee, over the years we have done our business and we have done it well. The charge of gridlock does not apply. The Committee's effectiveness is founded on three pillars: attracting good Members of diverse interests and talents; an experienced, knowledgeable, and professional staff; and an excellent working relationship with the minority.

Asserted that fights over jurisdiction are not merely petty turf fights between sparring egos, but reflect real policy differences. Attempting to create neat and absolute lines of committee jurisdiction will weaken the way the House addresses

important issues. Jurisdictional tension and competition between committees can be healthy. The institutional memory built up by committees are an important resource. Jurisdictional changes cannot substitute for strong leadership. It is not so much precisely where the lines are drawn that either creates or resolves jurisdictional disputes; what is needed is a greater spirit of civility and cooperation between chairs and their staffs.

Some procedural changes would be beneficial. Reduce the size of committees and subcommittees, and limit Members to service on no more than two committees and four subcommittees. The ever-increasing size of committees makes it difficult to get a quorum for a mark-up. With respect to multiple referrals, find a way to keep bills from becoming hostages in the joint referral process. Members should not be allowed to draft legislation with the intention of having it referred to their committee. When there is an error in the referral of a specific bill that error should not constitute a precedent for other referrals of the same or similar bills.

Committees need to strengthen their oversight work. Also, the need to develop and retain a strong staff. Any proposal for reduction of committee staff should be made on the basis of a specific analysis of their functions, and not in an across-the-board meat ax fashion.

Addressed several procedural issues. With respect to legislating on appropriations bills, Members of affected authorizing committees should be appointed as sole conferees on legislative items in their jurisdiction that are included in appropriations bills. On the increasingly large number of conferees and their complex appointment, the House and Senate should adopt rules to govern the conduct of conferences.

On the problem of openness, it has been said that sunlight is the best disinfectant, and that's true. But after a certain point, too much disinfectant becomes toxic, and in my view we have passed that point in the legislative process. The rules should provide for a process that encourages Members to talk openly and candidly with one another and should discourage a process that tends only to promote grandstanding, speechmaking, and posturing.

In conclusion, noted that many current criticisms refer to procedures that were the solutions to earlier complaints about the House. This demonstrates that there is no perfectly efficient system that can be adopted. Unintended consequences often make a mess of good intentions. Many of the reforms that have been suggested to you would leave us worse off, not better off, than we are today.

### Questions and Answers

Emerson: Is there any part of Energy and Commerce's jurisdiction that should be placed elsewhere, for example, the issue of railroads?

Dingell: In short, no. With respect to railroads, we solved the two recent railroad strikes, and we did it well and quickly. We're doing our work well so it doesn't need fixing.

Emerson: I wouldn't quarrel with the fact that it's been going well. But doesn't it make sense to get all transportation issues under one roof? The Public Works and Transportation Committee has jurisdiction over all other transportation, why not add railroads?

Dingell: The hard fact is that there is no great need to do this. Railroads have always been in our Committee. One of the reasons that the Commerce Committee legislates well is that we have broad jurisdiction. We're not a single or special interest committee. If you put all financial matters in a single committee, they will become a target of the special interests. We should not set up single interest committees.

Swift: The legislative process is not neat and could not be. You address the problem of Members being spread too thin in their committee assignments.

Dingell: We need a system where each Member has two committee and four subcommittee assignments, and an assurance that the leaders can't go off and get additional assignments for Members.

Swift: How did committees get their work done when there was jurisdictional overlap and before there was a procedure for joint referrals.

Dingell: Before the Bolling Committee there were sequential referrals. And they were atom bombs. A sequential referral got the attention of the committee chairs. In most cases, jurisdictional problems are worked out among the committee chairs without drawing much attention. This requires leadership on the part of the Speaker and proper performance on the part of the Parliamentarian.

There are times when bills will demand joint referrals, for example, in the area of health care. There is no way to avoid a multiple referral in this case, but the overlap will make for better legislation. But controls and constraints on the way this system works are needed.

Swift: I support reducing assignments and encouraging chairs to walk across the hall and work out problems rather than see multiple referrals as something to defend.

Walker: Republicans have limited assignments, as Mr. Dingell notes in his written testimony. But because Democrats have not similarly limited assignments, Republicans come back and ask for additional ones. Do you favor the elimination of proxy voting?

Dingell: No.

Boren: Would you favor an enforcement mechanism to force restrictions on committee assignments? This may be necessary because it is hard on leaders to resist Members asking for additional assignments.

Dingell: Waivers should not be allowed; just make this an absolute rule. Reductions might be done through attrition.

Boren: How can we determine which subcommittees are not necessary?

Dingell: If you try to decide which particular subcommittees should exist, there will be big trouble. Just establish a maximum number of subcommittees per committee, and establish limits on sizes of panels.

Keep oversight as a significant function of committees. This results in significant savings.

Boren: I am interested in your support for clear assignment of a major subject to one committee. Differing committee jurisdictions between the House and Senate may create problems in conference. Do you support greater committee structure parallelism between the House and Senate, in part to reduce the number of Members on conference committees?

Dingell: Didn't think that should be a high priority. The Senate's structure seems designed for a body of one hundred Members. The House can't afford to have as small a number of committees as the Senate without making them unnecessarily large. Moreover, policy issues are complex and multifaceted, and on big issues such as health policy reform you really can't reduce the number of committees involved. Generally, for broad policy bills, you really cannot keep the committee referral process simple. Complex bills take time and the referrals are sometimes sloppy, but you can't avoid that; nor should you want to on something as important as health policy reform, or omnibus environmental legislation.

#### Panel Presentation by Representative Gerry Studds and Representative Herb Bateman

##### Representative Gerry Studds

Remarked that he has been involved with legislative reform since early in his House service. As a Member of the Merchant Marine Committee, he was forced "to swear a blood oath" to oppose the Bolling Committee reforms. But he broke ranks then and supported the Bolling plan over the Hansen substitute.

Generally supported stronger assignment limits as the only way to get better control of Members' time. Any high school in the country does a better job of scheduling than the House. There are too many subcommittees; they decentralize legislative operations too much. Endorsed a reduction to at least five subcommittees on major committees and four on non-majors. Members could serve on only two



subcommittees per committee. Together, this would reduce subcommittees to below the level that existed in 1955. Member subcommittee assignments would be down to forty percent of their current level.

On the issue of whether Merchant Marine should be retained, he stated that Merchant Marine and Fisheries was not the problem with the committee system. No single committee was the cause of gridlock. Responding to criticisms of the Committee, offered the following defense: in many ways Merchant Marine and Fisheries is a model committee. It has good working relationships between the majority and minority parties and between senior and junior Members, and essentially has a non-partisan staff. Contrary to popular view, the Committee is not dominated by the merchant shipping interests; rather, it is a more diverse committee especially since it has become a key player in environmental legislation. In reviewing the committee system, urged the House to follow the motto of Mr. Obey -- "what's best is what works."

Finally, suggested a name change to reflect the current primary focus: Committee on Marine Affairs.

#### Representative Herb Bateman

Agreed with Mr. Studds that Merchant Marine was not a single issue committee. But, asserted the need for a committee to focus on revitalizing the merchant shipping industry in the U.S.

Lauded the Committee's Democrats for establishing a non-partisan professional staff, and was proud of the record of the Committee in working in a bipartisan manner. I will not oppose a proposal to change the Committee's name, once existing stock of stationery has been used up.

Supported Chairman Studds' proposals on assignment limitations. People are entitled to expect us to know what we are doing; too many assignments prevents us from doing our essential jobs.

#### Questions and Answers

Studds: Reauthorization of the endangered species act, and other major environmental legislation, are examples of the fact that the Merchant Marine Committee is in the thick of some of the major issues of the day, and is not just a peripheral legislative player.

Hamilton: Is it your position that we should not change jurisdictions or eliminate committees?

Studds: Some issues clearly can be reshuffled. But, you're going to endanger any other proposal the Joint Committee makes on other organization issues that could make a difference. Too much jurisdictional change will cause massive opposition within the Congress, and endanger other needed reforms. Policies are

complex, and the legislative process therefore reflects policy complexities. The committee system cannot be made entirely neat and tidy.

Bateman: You could completely dismember Merchant Marine and Fisheries, but I doubt that the committees that would get it are lacking for things to do now. Where do these subjects go, who would take them on? And what would happen to the degree of attention these subjects get now?

Boren: How do we implement subcommittee limits?

Bateman: Impose the assignment limits strictly, and let the committee decide what to do in carrying them out. Don't make any exceptions.

Hamilton: With regard to Mr. Studds' comments on scheduling, I hear more complaints about workload and scheduling than any other issue.

Studds: With regard to scheduling and assignments, the Joint Committee could review the assignment categories. I doubt that any other so-called minor committee has the scope of responsibilities or level of work that the Merchant Marine Committee has.

#### Panel Presentation by Representative Bill Clay and Representative John Myers

##### Representative Bill Clay

Noted that his service began before the Bolling Committee reforms, and that he had served on the Patterson Committee, so he knew first hand the difficult task of the Joint Committee. He listed the key components of the jurisdiction of the Committee on Post Office and Civil Service, focusing on Federal statistical policy and White House personnel as areas not often recognized as forming key areas of the Committee's work. He detailed the evolution of the Post Office Committee from the formation of a Select Committee on Post Offices and Post Roads in 1806. Cited the Committee as the principal congressional repository of expertise in government personnel, aspects of government ethics, salary and benefits. The Committee protects the bureaucracy from political raids by other committees. Pending major issues include the third largest dollar amount of reconciliation instructions.

Opposed parallel committee systems between the House and Senate. The larger House can allow for narrower committees to encourage Members to specialize.

##### Representative John Myers

Supported continuing the Post Office Committee, and noted the important constituent service (on retirement and health benefits of Federal employees) that the Committee provides to all House Members. It would be a terrible disservice to House Members generally to abolish this Committee; work and staff expertise of the Committee cannot be readily transferred to other committees, such as Government

Operations. Some adjustment in the committee system may be needed, but "long and hard" consideration should be given before the Joint Committee moves against the Post Office Committee.

### Questions and Answers

Clay: Scheduling problems could be minimized with stronger and more restrictive assignment limits. The Post Office Committee currently has good attendance at meetings, and its decisions are relatively bipartisan.

Hamilton: Could you live with a four subcommittee limit?

Clay: If you also limited full committee assignments and reduced the size of full committees it would work, but not if you didn't cut back on full committee assignments.

Myers: There could be jurisdictional realignment to bring committee jurisdictions closer to that of budget functions. As a Member of the Appropriations Committee, I feel that legislative jurisdictions, budget functions, and Appropriations Subcommittee jurisdictions needed to be more similar to reduce complexity and duplication of effort.

Clay: There are too many multiple referrals; for example, striker replacement bills were sent to three House committees. The Joint Committee should do something about multiple referrals in the House.

Dreier: Don't you think we need to cut back and consolidate some aspects of Congress?

Clay: Reform efforts are moving in the wrong direction. The House would benefit from keeping both a Government Operations Committee and a Post Office Committee. Reforms and consolidation would not save much money, or allow much reduction in congressional staffing and operating costs. That should not be driving force of reform. Before the 1970's, the Executive had a monopoly on resources and ran over the Congress. We put money into new resources here, and that's what we should preserve.

Dreier: What committees should be abolished?

Clay: I don't see the need to abolish any. The need for assignment limitations and committee size reductions will minimize any need for jurisdictional shifts or for the abolition of committees.

Dreier: What do you think about banning proxy voting?

Clay: If you only got one committee assignment, a ban would be acceptable. But once you permit more than one committee assignment, there will come a time

when you need proxies. Besides, if we are looking for private sector models, we should eliminate proxy voting when AT&T does.

Myers: Regarding a possible merger of the Post Office Committee with the Government Operations Committee, I do not see the need for a merger. Government Operations has little legislative responsibility or experience now, and the legislative product from the current Post Office Committee would probably suffer because of such a merger. It is difficult for the House Post Office Committee to deal with Senate Governmental Affairs because of the multiplicity of committee and subcommittee assignments in the Senate generally.

Clay: I would like to say that I am not opposed to committee system changes. A change in sequential referral procedures would require some jurisdictional shifts.

Myers: There should be a parallel committee structure between the House and Senate.

Clay: In my view, a parallel system would not work. The systems between the House and Senate regarding post office and civil service matters once were parallel, but the Senate decided to change that. I see no reason to follow an ill-advised decision of the Senate.

Myers: It is very difficult to arrange meetings with our Senate counterparts.

Dreier: Have you ever held joint hearings?

Clay: The Post Office Committee has not done so with Senate Governmental Affairs, but my other Committee assignment, Education and Labor, has done so with Senate Labor and Human Resources.

Myers: Joint hearings would probably save time.

#### Panel Presentation by Representative Henry B. Gonzalez and Representative Jim Leach

##### Representative Henry B. Gonzalez

Began with an overview of his thirty year service in the House. Congress has risen to the occasion on tough policy choices. But, Congress has also deteriorated -- the institutional integrity of the House has declined. The 1974 reforms, both in the budget process and in the committee system, coupled with the ethics reforms of 1976, have been deleterious. The Budget Act reflects a total turnaround in the two track authorization-appropriations process. It encourages continuing appropriations and supplemental appropriations. You can say all you want about the old system, but the old timers on the Appropriations Committee could run the spending process on time, and in appropriate legislative form.



Congress is cumbersome and probably will always be. But some things can be done to make it better. Arcane rules should not impede Congress' deliberative function. The Bolling reforms of 1974 contributed to the spread of subcommittees.

Fifty-one Members now serve on the Banking Committee. That is too many Members to be at all consultative. The Speaker has acted to enlarge committees, largely to comply with the interest of Members to serve on them, but the Banking Committee is too large to work effectively.

Overlap, duplication, and intercommittee squabbling characterize the current committee system. Discussions don't focus on policy issues, but instead are directed toward which committee has stronger jurisdiction claims. Although it is true that different committees bring different perspectives to bear on legislation, it is also true that these differences have delayed and impeded the policy process.

Both the Banking and Commerce Committees deal with financial services. Banking deals with federally insured deposit systems, and the Committee worked to reestablish public confidence in banks. Commerce works strongly with the SEC to protect securities investors. Commerce has this jurisdiction only because of a historic dispute between the Banking and Commerce Committees in the 1930's. The current world of financial services has imprecise boundaries. Senate committee jurisdictions recognize this changed environment, and its Banking Committee has the authority to report comprehensive legislation. In the House, the Banking and Commerce Committees have great difficulties in writing comprehensive financial services legislation. The problems are caused by imprecise boundaries between committees. When jurisdictional boundary lines are drawn clearly, even with some areas of shared interest, most committees can and do work well together.

Senate jurisdiction guidelines tend to be more up to date than those of the House. I suggest a formal expansion of the jurisdiction of the House Banking Committee so that the Committee can move comprehensive legislation. Such a change would improve the legislative product, and end much frustration among the public and among staffs of both the Energy and Banking Committees.

#### Representative Jim Leach

Noted six key principals essential in any committee system reform package:

- 1) Reduce the number and size of committees.
- 2) Reduce jurisdictional dissimilarities between the House and Senate.
- 3) Reduce jurisdictional overlap among House committees.
- 4) Equalize access of Members to the legislative process.
- 5) Reduce staff imbalances.
- 6) Limit the influence of outside interests.

Focused on some of these issues, stating that others were self evident. Procedural imbalances between the House and Senate lead to huge House conference delegations, impeding compromise.

Overlaps in committee jurisdictions have occurred by chance and by choice. New issues and changing issues affect committee jurisdictions, even those of long standing. Legislative strategy has also evolved to maximize manipulation of jurisdictional fragmentation and new referral rules, further complicating the legislative process.

Called for increased minority staff, at least comparable to that provided to the minority Members of the Senate. Noted that many Members of the majority did not fully understand the depth of frustration the minority feels about their role in an understaffed environment.

With regard to outside interests, the Joint Committee should investigate whether House and Senate rules should be changed to prohibit Members from receiving PAC contributions from organizations which have a direct interest in the work of the committees on which the recipient Member serves.

### Questions and Answers

Dreier: What would be the ideal size of the Banking Committee?

Gonzalez: The party leadership doesn't consult with me about who and how many Members should serve on the Committee. When I was a freshman in 1961, there were only thirty Members of the Banking Committee, and the Housing Subcommittee had only 7 members. Speaker McCormack consulted with many chairs, and got their input on whether they wanted to increase the size of their committees, and most often the Speaker followed their recommendations.

Dreier: What about transferring small business jurisdiction back to the Banking Committee?.

Gonzalez: In the early 1960's, the Small Business Subcommittee on Banking wasn't very active. When Wright Patman got leadership support to elevate the issue to select committee status that's when congressional attention and awareness took off.

Dreier: Would the Banking Committee be diligent in small business matters if the Committee got the subject back?

Gonzalez: I think that the Committee would, especially since most of the major small business legislation on the statute books dates from the era of the Banking Committee's jurisdiction over small business.

Dreier: What other issues should be transferred to Banking?

Gonzalez: I do not necessarily want to acquire more jurisdiction. There really is only so much work that any committee can do. Banking has established jurisdiction over credit allocating and granting activities and institutions. The problem with the Commerce Committee stems from a Federal Reserve decision to allow banks to engage in securities transactions. Because of House rules, that action was guaranteed to involve both committees. The Banking Committee does not necessarily need to acquire jurisdiction over the Securities and Exchange Commission, but some way to resolve the conflict and the ensuing delay needs to be found.

Dreier: How would you feel about expanding the jurisdiction of the Foreign Affairs Committee into international economics?

Leach: I have not had an opportunity to review the statement of Dr. Mann and Dr. Ornstein endorsing such a jurisdictional shift. This change would shift the focus of the Foreign Affairs Committee from international politics to economics. Truly, the linkages between economics and politics are becoming clearer to all. But there does not seem to be any compelling need for change in the jurisdiction of either panel. In reality, changing perceptions of the international order are reshaping both committees without a formal change in rules.

Gonzalez: I can see a reason to keep some issues related to the jurisdiction of the Banking Committee in other panels. For example, the Public Works Committee handles urban mass transit issues. The name of the Banking Committee could be changed to reflect its growing role in financial services, as the term banking does not reflect the broader issues of economic access that the Committee handles.

## HEARING SUMMARY, MAY 4, 1993

**Three Witnesses: Representative John LaFalce, Senator Daniel Inouye, and Senator John McCain.**

Vice Chairman Dreier commenced the hearing, stating that it was the continuation of a series of hearings on the committee system. The Joint Committee was continuing to hear from chairs and ranking members of committees.

Representative John LaFalce, Chairman, Small Business Committee

The Joint Committee has been charged with a great number of tasks. In enacting reforms, you must strike a balance between efficiency and rational deliberation. There are many reforms which this bipartisan and bicameral committee should examine. One of these is the Senate's use of the filibuster. Both parties have used it to stop majority votes from taking place. There is a difference, however, between gridlock and obstructionism.

When you look at why things actually take so long, you realize that money is usually involved. This is because of the three step (budget resolution, authorization, appropriation) process we use. Many states have a one step process and this method should be looked at. Some authorization process will still be necessary, and multi-year authorizations will save time.

Everyone would like to see a balanced budget and a reduced deficit, but we argue over what the numbers mean. States that have a balanced budget amendment also use a capital construction budget. We should consider using this method as well.

There are many talented people in Congress whose talents should be used. To this end, we should consider limiting the terms of chairs. Members should also have the ability to take a leave of absence from a committee. This would make life more meaningful to Members and make them more aware of other issues. What we do not need are waivers allowing Members to serve on more committees permanently. The biggest problem is dealing with the demands on our time. A good place to start dealing with this problem is to enforce the rules which presently exist.

We should also scrutinize individual committee budgets. In addition, we have discretion over the use of our monies. We are using them to finance caucuses and task forces which are taking up our time. There is no mechanism for controlling these countless groups which are taking up our time. We could control them through control over their governmental subsidies.

We need to enforce the existing rules regarding committee assignments. There are three types of committees in the House -- exclusive, major, and non-major -- and rules determining in what combination Members can serve on them. Nevertheless, there are 16 Members of exclusive committees also serving on other



committees. There are 62 Members serving on two major committees, and there are 40 Members serving on more than three committees. 118 Members, then, are serving in violation of the rules.

Gridlock and obstruction occur due to multiple referrals and overlapping committee jurisdictions. To rectify this, once one committee acts, dates should be set for action by the other committees.

There is a diffusion of power in Congress resulting in endless deliberation. The bill to create the Department of Education was debated under open rules and the debate lasted for three weeks. With totally open rules, there is total inefficiency. With totally closed rules, however, there is not enough debate on controversial issues and amendments. We need to find a balance.

Regarding the subject matter of my Committee, small businesses account for 99% of businesses in the United States. They are 50% of the GNP, while also creating jobs and innovation. The Small Business Committee was a select committee until 1974 when its need as a permanent standing committee was recognized. Today, it has 43 members, 26 Democrats and 17 Republicans.

Besides considering limiting the size of committees, limiting the size and number of subcommittees should be considered. Now, the rule is that no more than 60% of the full committee can be on a subcommittee. This number is much too high. If subcommittees are given equal power, then Members can be divided more evenly among them and would be compelled to serve on fewer.

If you look only at the legislative power of the Small Business Committee, it seems easy to fold it into another committee. The Committee, however, is the voice of small businesses whom are impacted by laws from other committees. The interests of small businesses are not always heard or considered. Examples of this can be seen in civil rights legislation and in the Family Leave Act. The Small Business Committee looks at legislation like this and acts as the voice for small business.

Some examples of this are:

1) The Credit Crunch. The Small Business Committee showed the problem existed for the small business community and now the Federal Reserve is aware of it and dealing with it. It took ten years of hearings, but now everyone is talking about the problem.

2) Product Liability. Nineteen days of hearings were held and as a result the first laws on this subject were introduced.

3) Franchises. One third of all retail sales are from franchised outlets. The Small Business Committee is looking at the relationship between the franchisor and franchisee to ensure equality. Consequently, things are being done at the state level and by the small business community.

### Questions and Answers

Dreier: Your testimony has been helpful and you argue a compelling case. Everyone agrees that the most meaningful reform we could make would be to comply with existing rules. Some of your ideas that should be given careful consideration include term limits for chairs, balanced rules, and date certain referrals.

Dunn: The busy schedules of Members leave us with only Mondays and Fridays to get things done since we are on the run during the other three days. How do you feel about a schedule that would have us in Washington for three weeks and home for one week, as they have in the Senate?

LaFalce: I am concerned that during the three weeks on we would still be in session for three days as they are in the Senate. I am also fearful that too many Members are Washingtonians without much contact with their districts. If we are in session for three weeks, five days a week, we will not be able to get anything done. We will need that one week off just to catch up and that will keep us away from home. Now, there is a balance between Washington and home.

Dunn: What are your thoughts on a 2:1 staffing ratio between the majority and minority parties on a committee, with the ranking member controlling 1/3 of the budget?

LaFalce: That is basically how the Small Business Committee works and we have never had complaints.

Walker: Do you have proxy voting?

LaFalce: Yes.

Walker: Could you get along without it?

LaFalce: No, not in the system we have. With our schedules, proxies allow the full sentiment of the committee to be heard. The problem is not with proxies, the problem is proxies without directions of how they should be used.

Walker: I find that they keep people from committee mark-up sessions and distort the process when amendments come up that were not intended.

LaFalce: We do not use proxies to hurt the minority. We have been turning out bipartisan legislation under open rules. We do not abuse proxies.

Walker: Then why do you need them. The point is that rules have become closed because of the belief that work gets done in committee, but ghost votes are being used as an central part of the process.

Dreier: If committee size is reduced and Members are serving on less committees, then the need for proxy voting will not be as great.

LaFalce: The Small Business Committee is viewed as needed by minorities. We have double the percentage of minorities on the Committee than exist in the House. The same figure is true for women. We give special attention to the needs and interests of minorities and women in business.

Allard: You stated that you are in favor of reducing the size of committees and the amount we serve on. Are you in favor of reducing the number of committees?

LaFalce: We should eliminate the duplication and ambiguity first. Do not start by eliminating committees.

Allard: Should we combine committees? For example, can Small Business fit into Energy and Commerce?

LaFalce: I fear that because the jurisdiction of Energy and Commerce is so mammoth that small businesses would be lost in the shuffle since they do not have the same ability to access Washington. Ninety-nine percent of business should not get lost in the shuffle.

Reid: There is no disagreement that committees are too large. In addition, there are too many subcommittees and they also are all too large. Members then would have to get off some. Everyone wants change, but few mention grandfathering.

Boren: You place emphasis on the number of subcommittees. Aside from letting up on multiple assignments, can we also reduce staff?

LaFalce: Yes, but do not do away with staff to save money. We need good, strong staff. One Member can not do it alone.

Boren: If we have unnecessary committees, then we have unnecessary hearings and legislation, we are creating a workload for an unnecessary staff. If you had five subcommittees and we told you that you could only have three, would you accept that?

LaFalce: Yes, as long as it is uniformly applied to other committees in the same category.

#### Panel Presentation by Senator Daniel Inouye and Senator John McCain

##### Senator Daniel Inouye, Chairman, Indian Affairs Committee

Congress's responsibility for Indian Affairs has its origins in the Constitution, Article I, Section 3, Clause 8, in which Congress is vested with plenary authority

over Indian Affairs and the conduct of commerce with the Indian Nations. This responsibility can not be divested in the absence of an amendment to the Constitution. The Senate has reflected its commitment to honor this constitutional charge by maintaining a permanent standing Committee on Indian Affairs for over 160 years. The only aberration from this pattern was a thirty year period when this jurisdiction was delegated to a subcommittee of the former Committee on Interior and Insular Affairs.

The premise that the Indian Nations are sovereign has been reaffirmed by the last twenty-three years through the government-to-government relationship we have with them. The history of our relations with the Indians before this enlightened policy is not one we can point to with pride. Our dealings with the Indian Nations had been one of dishonorable dealings, deception, and deceit.

In the beginning, we relied on the support of the Indian tribes in our fight for Independence. Years later, we declared war on them and for fifty years we attempted to exterminate them during an era now known as the Indian Wars. When the Indians proved to be survivors, we claimed their land through treaties which we broke and continue to break. We also had a federal policy of removal, where we rounded up remaining members and forced them to march across the eastern U.S., along the "Trails of Tears." We then adopted the policy of establishing reservations to control the transverse of Indians and sought to "civilize" them by turning them into farmers and eliminating any vestige of Indian culture, song, dance, or art. Forty years later we shifted policy and called for the reorganization of the tribal government. Twenty years after that, we sought to eliminate any relations with the federal government. This effort was then coupled with a policy of relocating Indians to the major urban centers of the country. Today, the policy of Indian self-determination and self-governance has been the guiding philosophy.

A look at this history reveals why we can not look at committee structure and congressional responsibilities in the absence of their historical context. Scholars of our history with the Indian Nations are consistent in their view that there needs to be a focal point in the Congress on Indian matters for both the formulation of policy and for the oversight and monitoring of the work of the federal agencies. The Indian program responsibilities with which we have charged federal agencies are widely dispersed. There is no central point of coordination and oversight of these efforts other than in the Indian Affairs Committee.

Aside from our legal obligations, there is also the moral imperative to improve the conditions of life in reservations communities. Indian communities have the highest unemployment rates in the nation. The accompanying social problems including extreme poverty, suicide, alcoholism, hopelessness and despair, are higher than in any other segment of our population. The housing and health care situation for Indians is equally alarming. Our responsibilities to the Indians can not be dispersed across numerous committees. The future of the Indian people lies in the strength of Indian governments and the consolidation of governmental authority in a manner that is designed to foster economically-healthy Indian communities.



Dismantlement of the jurisdiction of the Indian Affairs Committee would result in precisely the kind of fragmentation that we are trying to eliminate. To assure that the Congress did not abdicate its constitutionally-mandated responsibilities for Indian Affairs, at least eight different committees would have to take on new responsibilities. These other committees are already overburdened and most likely can not afford the kind of attention and focus that is enabled by consolidating this jurisdiction in one committee.

The responsibilities of the Congress are to the Indians governments not to individual Indian citizens as a constituent group. This is reflected in the fact that there is a whole title of the United States Code that spells out the nature of this government-to-government relationship. This should dictate the continuation of Indian Affairs as a permanent standing committee. Our Nation's first Americans deserve no less.

Domenici: The current trend is to say that the Indian Affairs Committee is out of business. The issue, however, is not that we need one less committee and it should be Indian Affairs, but rather, are we certain that when reorganization is over we have not given up on our commitment to Native Americans.

#### Senator John McCain, Vice Chairman, Committee on Indian Affairs

We have addressed the issues of our Committee on a non-partisan basis. Before abolishing this Committee, visit a reservation where the rates of alcoholism, disease, etc., are well above the national averages.

We have a constitutional responsibility to the Indians, a relationship that has been reaffirmed by the United States Supreme Court. We have made solemn treaties, land for obligations, let us not renew broken promises and terrible treatment.

Doing away with the Indian Affairs Committee sends the message to the Indian community that we do not care and are not fully prepared to keep our treaties. It shows that we have shirked our responsibilities.

#### Questions and Answers

Dreier: What has been your relationship with the House which does not have an Indian Affairs committee?

Inouye: We dealt with the full committee of Interior and Insular Affairs until they established a Subcommittee on Indian Affairs. I hope to one day have standing committees on Indian Affairs in both Houses.

Dreier: Could you comment on Senator Kassebaum's proposal on the budget process, since you are a co-sponsor?

Inouye: I became a sponsor realizing that it was probably not going to be considered. I became a sponsor because I believe that Congress should at least consider the issue.

McCain: Either appropriations or authorizations needs to be abolished. It is a flawed process because it is duplicative.

Dunn: In my state of Washington, we have a culturally rich Indian community. The unemployment and health problems among them, however, are rampant. We need to find policies to help them live healthy, productive lives. There are some radical plans for restructuring the committee system. If the plan to have eight committees is used, could Indian Affairs exist as a subcommittee?

Inouye: It could, provided that the subcommittee had authority over all Indian issues. If responsibility is fragmented across many committees, then no.

The Indians are among the most impoverished of the population. They can not come to Washington for eight different hearings before eight different committees. We need to go to them to find out their views on issues.

McCain: Do not fragment responsibilities, it will only destroy what we have built.

Allard: There is a strong interest in reducing the number of committees. Another idea is to similarly align committees in both chambers. Is this a good idea or are the Houses too different?

Inouye: If the goal is to achieve uniformity, then it may be counterproductive. The Constitution grants separate powers to the two Houses. In addition, the membership is different, the House has more Members to accommodate.

McCain: We all agree that there are too many committees and subcommittees. More efficiency may be achieved with more similar systems and jurisdictions, but there may still be a need for certain differences.

Domenici: The Indian Affairs Committee has claimed jurisdiction from committees with generic jurisdiction. Indian housing needs to be improved, but it will not happen with a multi-housing bill. We have to find a way to achieve reform and still have issues addressed.

Boren: The Department of Environment bill created an assistant secretary responsible for Native American lands. How will this office work, and who will it report to?

McCain: The office is designed to report to the Indian Affairs Committee.

Boren: Will it also report to the Environment Committee? Have you worked out the dual jurisdiction?

Inouye: In our case, relations with other committees have been supportive. With joint referral, the committee that takes the lead is allowed to develop the issue. One thing to keep in mind is that no matter what the structure is, the Members are people with egos and personalities. If Members do not cooperate, then even the best system will fail.

McCain: On issues that apply only to Indians, committees with joint jurisdiction accede to us. Other committees do not have the experience and expertise to deal with the issues.

Boren: What are your thoughts on shared jurisdiction? How can we improve the structure? Do you have any subcommittees?

Inouye: We do not have subcommittees. We also do not have a ranking member, we have a Vice Chairman.

Boren: I have had the same experience on the Intelligence Committee and on this Joint Committee. I am convinced that this is helpful in building a bipartisan spirit on committees.

McCain: When special committees are set up, they are always bipartisan.

Boren: Yet we do not follow that model on our standing committees.

Most Members feel that if they could change one thing, it would be the fragmentation in their lives from so many committees and subcommittees. If we stop granting waivers to the assignment limitations left and right, then unnecessary subcommittees would disappear. Furthermore, subcommittees fracture issues. If you only have so many hours and no subcommittees, then only the important issues are dealt with. Should we reduce the number of subcommittees and committees as well as reduce their sizes? Will this help with the fragmentation? Is there anything else we should look at?

Inouye: Subcommittee organization should be subject to approval by the whole body or the leadership. This would restrain the creation of subcommittees. Do not leave this up to the chairs or individual committees.

McCain: Some issues are so technical that subcommittees are needed. There is the practice, however, of only attending committee meetings where you are the chair or ranking member. The need for subcommittees in this light is a charade. We need subcommittee reduction.

## HEARING SUMMARY, MAY 6, 1993

Nine witnesses: Representative Patricia Schroeder, Representative Carolyn Maloney, Representative Eva Clayton, Representative Sonny Montgomery, Representative Charlie Rose, Representative Norm Mineta, Representative Bud Shuster, Representative Henry Hyde, Representative Pat Roberts.

Panel Presentation by Representative Patricia Schroeder, Representative Carolyn Maloney, and Representative Eva Clayton

Representative Patricia Schroeder

Asked the Joint Committee to reorganize the committee structure in such a way as to guarantee a committee with focus and legislative authority to act on behalf of children. Noted that in normal circumstances a committee is disestablished when its job is over -- whereas in the case of the Select Committee on Children, Youth and Families, shut down as of April 1, its task was just beginning and its work was critically needed.

Currently, issues that effect children and families are dispersed throughout the House to 13 of the 22 standing committees; in fact, constituents from outside the Washington area have a difficult time determining where to go in Congress to voice their concerns over children. Legislative jurisdiction is fractured and the use of multiple referrals results in replicated and confusing legislative history (e.g. child care).

If the Joint Committee proposes a major overhaul of the committee system, then a Committee on Human Resources could be created. If minor revisions are put forth, then the establishment of a subcommittee on children is sought. Regardless of jurisdictional changes, if any, suggested the creation of a Congressional Council on the Family, composed of the chairs and ranking minority members of the committees with primary jurisdiction over these issues. This council would assure coordination on family legislation.

Representative Carolyn Maloney

Children are our most precious resource yet they do not appear to enjoy the status in Congress of a post office or the merchant marine. Stated that as a freshman Member of the 103rd Congress, she was "appalled" by the splintered jurisdiction of children's issues. Urged the Joint Committee to seriously consider the suggestions presented by Representative Schroeder.



### Representative Eva Clayton

With the abolition of the Select Committee on Children, Youth, and Families, the Congress lost its ability to track the government programs designed to protect and insure the welfare of the country's most vulnerable class of citizens. Suggested the creation of a Committee on Human Resources. Recognizing the battle for "turf" in such a jurisdictional realignment, urged her colleagues to think of the children and families that will be the beneficiaries of this change for the better.

### Questions and Answers

Norton: As the President of the Democratic Freshman Class, does the Class support your proposal for the creation of a Committee on Human Resources?

Clayton: Yes; the Joint Committee is urged to find an appropriate, focused place for children's issues.

Norton: Will the Council on the Family reduce turf battles and joint referrals?

Schroeder: That is the intention; the Council will be a "one stop shop" for family concerns. The chairs are sympathetic to children's issues and will work with the Council when they know a problem exists.

Norton: If we had a Committee on Human Resources, would you expect, for example, the Committee on Ways and Means to defer to Human Resources? Perhaps Human Resources would have as its core the current responsibilities of the Committee on Education and Labor, but you can't expect all issues relating to the family to be in one committee.

Schroeder: Clearly, one committee cannot have total jurisdiction, but the Council could be the bridge just as the Select Committee on Children, Youth, and Families was once the bridge. Children advocates have no idea where to go in Congress now. The Congress needs to become family friendly.

Norton: Why can't the committees work together now? The Joint Committee will have a difficult time with radical proposals like creating a Human Resources Committee.

Schroeder: Turf wars get in the way as was demonstrated by the handling of child care legislation. We need a committee fully in charge in certain areas rather than split jurisdiction.

Emerson: Did the prior reform effort help children's issues? Was the subcommittee proliferation beneficial to children?

Schroeder: While some reforms have been positive, it is troubling that with subcommittee proliferation, no subcommittee developed on children, youth, or families.

Allard: With regard to the CRS plan to revamp the House committees into eight, can we consolidate too far?

Schroeder: Consolidation is needed, and we need a Human Resources Committee. We need to focus; we need to make the jurisdictional responsibility clear -- it's like opening up government. Regarding the eight committee plan, I cannot commit to that particular proposal.

Dreier: What other committees could we fold into Human Resources, other than Education and Labor?

Schroeder: We need to streamline but I cannot commit to certain specifics at this time.

Dreier: What about eliminating the Appropriations Committee?

Schroeder: We have too many budget layers. I would support reducing from three to two, but I cannot commit now to eliminating either the appropriations or budget layer.

Hamilton: As I understand it, you want bold and major changes in the committee system?

Schroeder: Yes.

#### Representative Sonny Montgomery

Noted that various veterans' groups were in attendance and that they support his comments.

Radical changes are not needed in the Congress -- the system works as currently constituted. The House is efficient, with the 102nd Congress being very productive for veterans. Further, there is great cooperation among the committees, and jurisdiction is not a problem.

Opposed the elimination of the Veterans' Affairs Committee and the "demotion" of veteran issues to a subcommittee. Rather than this type of reform, the Joint Committee might look in the direction of reductions in committee sizes and of restrictions in the numbers of subcommittees.

Also the Joint Committee should examine the problem of waiving points of order on conference reports accompanying appropriations bills. Suggested that efforts to improve cooperations between the two chambers would be worthwhile. Questioned the need for duplicative administrative offices such as the payroll offices and the page schools.

## Questions and Answers

Emerson: Please comment on your joint hearings with the Senate Veterans' Affairs Committee.

Montgomery: Our joint hearings are held to hear from the various veterans organizations. They work well -- time is saved and the House and Senate Members get to know each other and to learn where the other is coming from. There is a common base of understanding.

Emerson: You have no proxy voting on the Veterans' Committee. This is admirable; how do you do it?

Montgomery: We run the meetings on time and always get 85%-90% attendance. I advocate no proxy voting in all committees.

Spratt: For the sake of argument, suppose Veterans' is folded into another committee. Would you prefer all jurisdiction to be in one place or to be split?

Montgomery: Just one subcommittee, just one place. If you do fold Veterans' Affairs into another panel, the veterans groups are likely to do all they can to stop this reform package in total. I could be wrong.

Dreier: May I have your thoughts on establishing parallelism of committee structure with the Senate?

Montgomery: Our House and Senate Veterans' Committees are small and we get to know each other. In Congress the two chambers don't talk to each other very often. I like parallelism; it has worked with us, maybe it would work with other committees.

Drier: Can you comment on the practice of the Appropriations Committees legislating?

Montgomery: Authorization provisions attached to appropriations measures is a problem that must be stopped.

## Representative Charlie Rose

Stable administrative committees are essential to control of the parent chamber. Administrative committees give the Members, the leadership, and each chamber the wherewithal to function appropriately. An administrative committee sets the policy and interprets the policy. Others, like the new Director of Non-Legislative and Financial Services, carry out the policy.

An administrative committee provides for Member responsibility, and rotating membership would diminish that responsibility as well as the capability of overseeing the legislative bureaucracy.

If the House did not have a House Administration Committee, it would have to invent one. But the status quo is not perfect; the Committee is now experimenting with bipartisan administrative oversight. However, bipartisan does not mean bicameral -- each chamber has its own culture.

Reform is not a substitute for substance or for leadership deficiencies, and it cannot compensate for institutional culture. In other words, if the Joint Committee wants to rework the committee system, don't go over board. Wholesale change is simply unnecessary and unwise.

### Questions and Answers

Dreier: Can we consolidate administratively anywhere?

Rose: Yes: the Capitol Hill police. There is currently no adequate oversight.

Dreier: Can we merge the ethics panel, the Franking Commission, and the Committee on House Administration?

Rose: These three entities do very different things. It does not matter where the administrative function resides, but the House must have such a function.

Emerson: Regarding committee staffing, can we divide committee staff 2/3, 1/3 between the majority and minority parties as the Stevenson-Brock panel did in the Senate?

Rose: Look at Ways and Means as a model; here the chair and ranking minority member have an agreement. In the House, the majority has two thirds of the statutory staff, and the minority has one third; the issue arises only with the investigative staff. The Democrats and Republicans need to work together -- but this cannot be forced.

Dunn: Why not reduce the Democratic staff until it corresponds more appropriately with the Republican staff?

Rose: Republicans already have one-third of the statutory staff -- all that is at issue is the investigatory staff. The leadership of both parties need to work this out.

Dunn: I regard this as a fairness issue.

Swift: If the jurisdiction of House Administration were transferred, to where might it go?



Rose: The suggestions have been Appropriations and Rules -- both ideas are bad. The House Administration Committee is a great idea -- it is a war-free zone in the midst of partisan bickering.

#### Panel Presentation by Representative Norm Mineta and Representative Bud Shuster

##### Representative Norm Mineta and Representative Bud Shuster

Although periodic minor adjustments have been made to the committee system since 1946, no major overhaul has occurred and the legislative process has been adversely affected. The system of committee jurisdictions is devoid of coherence, irrational, and lacking in relevance to current and emerging policy issues. Committee jurisdiction is in need of reform guided by the principles of rationality and exclusivity. This would eliminate the widespread use of multiple referrals which are an indication that we are trying to fit current issues into an increasingly outmoded committee structure. Drove these points home by an examination of the jurisdiction of the Public Works and Transportation Committee. Noted that while Public Works has jurisdiction over some transportation modes, it does not have jurisdiction over others, hence a national transportation policy is difficult to fashion. Fragmented jurisdiction hinders comprehensive planning.

Regarding the authorization/appropriations processes, the encroachment of appropriating committees in the policy arena creates problems of division of labor in the House and in consistency of policy established by the Congress. To correct this situation in part, Rule XXI must be enforced and restrictions on its waiver tightened.

Regarding the congressional budget process, the budget process layer is necessary but it must be changed. Through a series of examples using the Public Works Committees, suggested various reforms noting that while it is not always clear which of the possible solutions would be the best solution, we do know that the current process is not working.

Regarding committee budgets and personnel, the staffing and funding of the committees is a system based on historical accident, not clear thinking, and this system needs to be revamped. The current system is so confusing that accountability is minimal.

##### Representative Bud Shuster

Asked the Joint Committee to examine the issue of wasted time; e.g. a 15 minute roll call should be 15 minutes and not longer, and innocuous floor votes on procedure should be curtailed. In regard to the Intelligence Committee, the length of service should be extended to eight or more years -- the issue is extremely complex and once you have mastered its intricacies, you must rotate off.

### Questions and Answers

Dreier: It would be a sweeping reform in itself if waivers could no longer be granted on Rule XXI. Do you have any jurisdiction on Public Works which you want to give up?

Mineta: We are willing to discuss this; however, I cannot identify any areas now.

Shuster: If an issue were not transportation or public works, we would have a hard job in defending our jurisdiction over it.

Dreier: What do you think about House and Senate committee parallelism?

Mineta: It has merit -- and would certainly minimize the shopping around for a committee that is so prevalent now.

Dreier: Am I correct in understanding that you wish to eliminate joint referrals?

Mineta: Maybe a total elimination is impossible; no doubt a few fuzzy areas would remain even if the committees are realigned. But if functions are the organizing theme, joint referrals would be minimal.

Dreier: Some say the committee system is not broke, so don't fix it.

Shuster: But it is broken.

Dreier: Should we merge the Intelligence Committees?

Shuster: That is a good idea; but the critical issue is to extend the terms of the Members.

Spratt: Why doesn't your Committee have jurisdiction over rail roads?

Mineta: The former chair of the Commerce Committee, Harley Staggers, cut a deal back in 1974; rail roads would remain in his Committee until he left Congress at which time rail roads would go to Public Works. But when he left, the new chair did not feel bound by that deal.

Spratt: Considering the jurisdictional battle over clean drinking water, would you trade clean water issues for railroads?

Mineta: Clean water clearly is within the purview of Public Works, functionally speaking. Functional lines should be defining.

### Representative Henry Hyde

Addressing perceived flaws in the current congressional system of intelligence oversight, noted that the expansion in the size of the House Permanent Select Committee on Intelligence has reduced its effectiveness by increasing its politicization. A reduced Intelligence Committee is recommended; however, the ideal construct is a Joint Intelligence Committee which, too, would have a small membership.

Advocated writing into House rules the requirement of an oath of secrecy for the Intelligence Committee's Members, the creation of a House Security Office, and equitable committee staffing ratios.

### Questions and Answers

Spratt: What is an appropriate size for the Joint Committee on Intelligence?

Hyde: About 10 Representatives and 10 Senators.

Spratt: Do you have any thoughts on the tenure of Members?

Hyde: I am not opposed to extension beyond the current six years.

### Representative Pat Roberts

Regarding committee jurisdiction and consolidation, argued for the continuation of a separate Agriculture Committee, noting that critics who complain about American agriculture do so with their mouths full.

Recommended the creation of a Joint Committee on Legislative Agencies and Operations to replace the Joint Committees on the Library and Printing.

Legislative Service Organizations (LSOs) are a candidate for real reform. Was particularly concerned about seemingly poor financial accounting of the LSOs. Noted that several House reform efforts aimed at LSOs never succeeded in getting their recommendations adopted. A recent GAO review that he commissioned showed that for the vast majority of LSOs, a substantial discrepancy exists between receipts and expenses. This represents a national disgrace rivalling the House bank incident. Recommended the abolition of LSOs not only because taxpayer money may have been ill spent but also because LSOs do not serve any legislative purpose and only add to the already fractured committee system.

### Questions and Answers

Spratt: So you advocate the abolition of LSOs?

Roberts: It is time for a mercy killing.

Spratt: What about the Democratic Study Group and the Republican Study Committee?

Roberts: They are LSOs, and I'm a member of the RSC. The LSOs need a different reporting form, more akin to those used by personal offices and committees. We have no idea where the money is going.

Dreier: Both parties balk at abolishing LSOs.

Roberts: Informal caucuses are acceptable; they have no money.

Dunn: The lack of oversight of LSOs is disturbing.

Allard: This is outstanding information. What happened to the House Administration reports and recommendations?

Roberts: None were ever implemented; there are informal guidelines and informal advice but no regular monitoring.



## HEARING SUMMARY, MAY 11, 1993

Six witnesses: Representative E. (Kika) de la Garza, Representative Carlos Moorhead, Senator David Pryor, Senator William S. Cohen, Senator Dale Bumpers, Representative William Clinger.

E. (Kika) de la Garza, Chair, House Committee on Agriculture

Congress created the Joint Committee because we recognized both the public's and our own frustration with the Congress. The Committee has a broad mandate: to improve Congress as a functioning institution of government and to meet public expectations. In carrying out this mandate we must distinguish between the structures and processes necessary for Congress to make national policy and those for permitting the people to be heard.

The most that can be expected from the legislative process is that it facilitate the opportunity for the people's views to be heard. Procedural reform cannot stop policy gridlock, which most often reflects a political lack of consensus on how to deal with issues. Even radical reform couldn't force action, for the process will always reflect any lack of popular consensus.

I specifically want to focus today on 1) legislative riders in appropriation bills, 2) the distribution of jurisdiction among committees, 3) Member committee assignments, and 4) the size of conference delegations.

Like the chairs of many authorizing committees, as Chair of the Agriculture Committee I often find the results of the appropriations process to compromise the ability of Congress to enact meaningful legislation. When Appropriations Members circumvent the prerogatives and jurisdiction of the authorizing committees by legislating on appropriation bills, the result is piecemeal legislation removed from overarching policy considerations. During initial consideration, House Rule XXI usually protects the authorizing committees, but the Senate's propensity to legislate on appropriation bills, combined with the House's procedures for considering Senate amendments, undermine them.

We need House rule changes to restore traditional boundaries between appropriating and authorizing committees. Motions in the House to dispose of Senate legislative amendments to appropriation bills should be offered by the authorizing committees of jurisdiction, not by the Appropriations Committee. Also, the Speaker should use his authority to appoint authorizing committee Members to conferences on appropriations bills with legislative provisions.

Improvements are needed in the appropriation process, but I oppose abolishing the Appropriation Committees, or giving their functions to the authorizing committees. The additional responsibility of allocating funds annually would interfere with our own responsibilities for policy development and oversight, which take our full time already. I have constructive working relations with the

Appropriations Committee; our differences are natural, but the Federal food producing system and commitment to feed the hungry show that the system is workable and effective.

I think the proposal to abolish the Appropriations Committees comes because the legitimate traditional line between the policy setting and fiscal priority setting roles has become blurred. What we need is therefore to reinforce that line.

Changes in committee jurisdiction will be a tough and sensitive issue for the Joint Committee. Many believe that seemingly archaic overlapping jurisdictions contribute to gridlock. If the Committee were to start from scratch, you'd probably put subjects together logically and divide workload equally, and the current committee structure probably doesn't satisfy these goals completely. Yet wholesale realignment might not be beneficial enough to justify the effort; no redrawing of jurisdictions would do away with overlap.

I therefore hope the Committee will approach these problems through marginal adjustments, not wholesale realignment. Rather than trying to eliminate overlaps, acknowledge them and try to reduce their potential to generate gridlock; focus on facilitating policy consensus in spite of overlaps. In areas where overlap is common, perhaps there should be more use of ad hoc committees -- not Select, Special, or permanent committees, but panels like the one that put together the 1977 energy bill. Such an approach would give the House flexibility to overcome the gridlock and obstruction that may arise from jurisdictional overlap. There should be rules to require that ad hoc committees have balanced representation from the committees of jurisdiction, and to limit their total membership.

If the Committee does address major overlaps in jurisdiction, there are some that relate to the Agriculture Committee. We now have most aspects of the production, inspection, and marketing of food and fiber, and commodity exchanges. All inspection of meat, seafood, produce and processed foods could appropriately be included in our jurisdiction. We could also more adequately represent rural interests if we had all of forestry and forest management. We now have rural development, and could include USDA rural housing programs. Similarly, we have some jurisdiction over nutrition, and could cover it better if we had all USDA nutrition programs, including school lunches and WIC. As it is now, the Secretary of Agriculture says he must appear before five or six different committees or subcommittees.

I support other Members' suggestions for more full five-day weeks and weeklong recesses. Such a schedule would permit more concentrated debate on major issues, aid committees in meeting and debating, and help the reputation of Congress. Under present conditions, the Committee can't have hearings on Monday or Friday, and few on Tuesday; in practice, we're limited to Wednesday and Thursday. Even conscientious Members find themselves forced into this schedule by necessity. With a large district and a 4000 mile round trip, I can go to the district all weekend and still not go home.

I also encourage limits on committee assignments; too many Members have too many assignments. For my first three terms I lived under limitations to two committees and two subcommittees. Under that system, when Wilbur Mills was asked any question on the tax code on the floor, or Bob Poage about Agriculture, they'd know the answer. Today, we've lost some of that expertise because of the multiplication of subcommittees. When we find ourselves spread out running from one subcommittee to the next, we have to delegate to staff. They are often excellent, but then they and not we become the experts. We need this draconian limitation so that Members themselves can again become the experts.

I first served only on Agriculture; though my district wanted me on Merchant Marine and Fisheries, and I had previous background in Foreign Affairs, my delegation told me to go on Agriculture. When I first became chairman of Agriculture, I didn't take a subcommittee, and some said I wouldn't be able to contribute to policy making, but I do. This approach also helped keep peace among newer Members. We could have gone to five subcommittees this year, but kept six to accommodate a Member.

Often we deal in personalities rather than with structure. We should make no distinctions between "major" and "minor" committees. When I became Chair I had to get off Merchant Marine, but the Chair of Merchant Marine didn't have to get off Agriculture because Merchant Marine was a "minor" committee. I was serving my district, but I was going to need all my time to dedicate to Agriculture.

Large conference committees also hinder efficient and timely completion of legislation. I once presided over a conference that involved four other committees. Members now feel their needs require them to serve on conference committees; few in our districts know what a conference committee is, but the institution makes it of major importance. The size should somehow be limited.

In summary, the Joint Committee should preserve the complementary roles of authorizing and appropriation committees. Increased use of ad hoc committees, and some marginal consolidation of jurisdictions, should help. If the Committee's recommendations take our democratic process into account, they will earn the support of Members and I'll work with you and support the final product.

Despite being too large and having too much workload, the Agriculture Committee has acted responsibly in reducing the budget for which we're responsible by \$57 billion in the last few years. The 0.7% of the budget for which we're responsible yields 17% of GNP;. Ours is the only sector of our economy that has a positive balance of trade, and programs under our jurisdiction are only a small component of entitlement spending. If you give us a number we'll meet it, but let us set the priorities.



## Questions and Answers

Boren: On committee structure and assignments, many Members suggest merging committees and limiting assignments to allow us to stop running around and fragmenting our efforts. Some think this approach could also lead to limiting the size of subcommittees, and some could get depopulated. Could the number of subcommittees be reduced?

de la Garza: I think so. When we were asked to reduce from eight to six, we worked it out in one afternoon session, accommodating both Member needs and commodity mixes.

Dreier: You made a point I make, that one of the greatest reforms would be for us to comply with existing rules, especially on appropriations-authorization problems. It's bold of you not to advocate eliminating the Appropriations Committee, which some chairs have.

You also referred to reducing the number of assignments; implementing that will be a challenge. How should we deal with sitting Members? Should we phase the new limits in? Should we maintain a grandfather clause?

de la Garza: This is a difficult area because it deals with Members' perceptions of what they need in their districts. But for the institution to function, we must stabilize assignment numbers. I don't know whether you use a grandfather. You don't want to damage any Member's career, and the perception is that to be taken off a committee is a negative.

Reid: Where do your jurisdictional conflicts occur on Agriculture?

de la Garza: We don't have conflicts, because where we have overlaps, we have good relations. But as the Secretary of Agriculture's remark indicates, it would be more orderly if everything within the Department of Agriculture would come to the Agriculture Committee. All food inspection, not only meat and poultry, should be in Agriculture. Part of nutrition is with Education and Labor, because of the school aspect. I think they should do the policy aspects of schools and let USDA, and the corresponding committees, do the food aspects.

Reid: When conferees fill up the whole room, it's hard to do good work. But doesn't the answer come from the leadership? Could you make their job easier by arbitrarily limiting the number of conferees?

de la Garza: In part. I remember conferences that consisted of the Chair, the Ranking Minority Member, two more Republicans, and four more Democrats. And it worked, though on the other hand, we didn't have the input of all Members as we do now. Now we have to meet in the caucus room, and many of the conferees may not be there.



Boren: Such a rule might make the Chair's life easier, because he could deny Members' requests to be on the conference.

de la Garza: Yes, the current situation is an institutional problem, but also an administrative nightmare. When the leader tries to accommodate those requests, the conference gets too large; and then there are an additional fifteen alternate conferees appointed just for specific areas.

Reid: Staff should remind us not to forget this point.

Dunn: Many freshmen weren't prepared for the workload here. Much of the deliberative character has been taken out of the process. Times in which we could focus on our districts would help. It takes those of us from the West Coast a day to get back here, and then we immediately plunge into the maelstrom. All possibilities for simplifying the schedule should be taken into consideration.

I understand your Committee works in a bipartisan way, and credit your sense of fairness. Earlier this year the House debated requiring 1/3 minority staffing and budget. How would that affect Agriculture?

de la Garza: We've never had any problem, and the issue has never come up. Institutionally, I think the committee chair should have responsibility, because he or she chairs the whole committee. I've dealt with three different ranking minority members and never had any minority movement to control this or that; I've never focused on it.

Allard: I'm interested in your comments about limiting service to two committees and two subcommittees. If you do that, maybe you should require a minimum number of Members on each panel, and abolish units that attract insufficient interest. When you were first here, was the number of committees or of assignments limited by rule?

de la Garza: A long time ago, but you didn't have the proliferation of subcommittees and select committees then. You served on one major and one minor committee, with no exemptions except for House Administration. I favor having exemptions only for committees with administrative functions. Under that system there was no problem; you just belonged to two subcommittees on each committee.

Allard: But you want just two total?

de la Garza: Under that system, all the committee members senior to me were expert in some field. Also, I don't know how it worked, but I didn't find myself running from one meeting to another; maybe there was more ad hoc coordination to avoid schedule conflicts.

My concern is the degree to which Members have lost expertise in areas. That can only be restored by reducing the areas in which Members serve, so they can

devote themselves to those areas. It tires me to see how Members run around; they're dedicated, but spread out. They can't devote the time, so I have to deal with staff who come to sit in for the Member, pick up the handouts, and ask me what exactly was said, because the Member has to be elsewhere. It's an injustice to the Member not to have more synchronization.

Walker: Would eliminating proxy voting encourage Members to accept fewer assignments?

de la Garza: That's a different issue. In public elections you can vote absentee; proxies are the same device within Congress.

Walker: But Members are willing to take five or six assignments because they know they can vote by proxy. If there were no proxies, maybe they wouldn't be so eager to take on assignments.

de la Garza: I have no quarrel with that theory, but I believe it's a basic right of a Member to vote on an issue, just as with pairs.

Walker: But pairs don't count in the final vote, and proxies do; so it's not the same. How big were subcommittees in your early days? Were they usually smaller?

de la Garza: Yes, the Department Operations Subcommittee consisted of four Democrats and three Republicans originally. That's how I became Chair in my second term: one retired, one chose another subcommittee, and one was defeated.

Walker: If we went to a system with ten committees -- a major structural shift -- then if each had five subcommittees, they'd be limited to eight or nine Members each. If we had 20 Committees, and each Member served on one subcommittee, they'd have to have about four Members. That might be helpful; it would gather expertise.

de la Garza: That's how it used to be. These were my personal views; I wasn't testifying in the name of the Committee.

Representative Carlos J. Moorhead, Ranking Minority Member, House Energy and Commerce Committee

I agree with Representative Dunn that we'd operate better with a week off per month to meet people and cover issues in our districts. In the other three weeks back here, we'd have more time to do the work needed before committee and floor sessions. We wouldn't have to work three days each week and then have Monday and Friday with little to do. Those from nearby may like the long weekend, but Western Members can get little done on a weekend at home.

Chairman Dingell testified on the important role of our Committee at an earlier hearing. I'm also Ranking Member of the Judiciary Subcommittee on Intellectual Property and Judicial Administration, but I'm testifying today on the jurisdiction of

Energy and Commerce. Our Committee's broad jurisdiction makes it a big, easy target. Its predecessor committees go back to 1795, and in 1946 it got clear jurisdiction over issues including commerce, transportation, petroleum, securities and exchanges, power transmission, railroads, public health, and inland waterways. This jurisdiction expanded later and is now established through an inter-committee memorandum of understanding. But we've also lost jurisdiction over much transportation, and science and space.

I agree with our Chairman that we should not lose jurisdiction if we are successfully meeting our responsibilities, as we do with timely and high quality legislation. Figures on how much major legislation we are able to report show that we are not contributing to institutional "gridlock." In part, we are able to accomplish these results because our broad jurisdiction attracts diverse Members with varied expertise. In a system of committees with too narrow jurisdictions, panels would tend to become beholden to special interests, which could inhibit developing policies for the next century.

In certain other areas I disagree with the Chairman, and urge reform. In particular, from the perspective of the minority party and of individual Members, the lack of open rules is an intolerable obstacle to full and fair floor consideration. Energy and Commerce seldom asks for a closed rule. I agree with Political Scientists Mann and Ornstein that restrictive rules disregard not only minority and individual rights, but the constructive role of dissent in improving legislation. I also concur with Representative Solomon that the Joint Committee should retain earlier reforms intended to ensure a more rational deliberative process.

I also oppose proxy voting in committee. We don't permit it on the floor. If proxies were forbidden, Members would come and listen to arguments on amendments rather than giving their proxy and voting, maybe the same way, but not based on the arguments.

I favor limiting committee assignments, which would allow Members to meet their responsibility as Representatives to participate. Two committees is acceptable, but any more would cut down the time Members can devote to their assignments. I agree with Chairman de la Garza that a committee needs some Members with expertise. Multiple assignments make it hard for Members to meet all of their obligations, and for the committees to get quorums. Today, because the minority enforces assignment limitations more strictly, its Members have good attendance records.

I concur with Chairman Dingell's statement that we have good relations between the majority and minority. We work through extensive discussion that produces well negotiated legislation, and only seldom through determinative votes. The Chairman conducts meetings fairly and supports each Member's participation.

The minority party on the Committee receives under 20% of the Committee's investigative funding, which severely limits the work the minority can do on important legislation. If you let more Members do the work, you get better

legislation that will be defeated less often on the floor. We must raise that funding figure to 33%; at the outset of this year the majority/minority staff ratio was 95 to 18. The Committee does have a highly professional and capable staff, particularly on the minority side.

### Questions and Answers

Dreier: I appreciate your call for more open rules and for better committee funding ratios.

Dunn: I appreciate your support for abolishing proxy voting, which would also limit the number of committees Members choose to serve on.

We have begun to discuss extending "sunshine" requirements to committee meetings, so that people can see on C-SPAN the meetings they're paying for. How would that affect the process?

Moorhead: I would favor it, except for secret and technical hearings, or where people's reputations are involved. I've seldom seen meetings closed; it's very rare except in relation to personal reputations.

Dunn: And national security? But the whole freshman class got bumped out of Ways and Means the other day.

Swift: The House could learn something from Energy and Commerce about the use of special rules: your majority doesn't use them to squash the minority, nor the minority to filibuster or abuse the process. Either approach violates the spirit of the rules, and tends to draw the other side toward equal and opposite actions. I can remember once when the Republicans engaged in a filibuster by amendment, and the Democrats did the same thing in the next Congress. Abuse on both sides has got us locked in a debate over closed versus open rules. Each side needs to understand that it's their responsibility to use rules in the way intended.

Moorhead: You make a telling case for the open rule process.

Swift: For not abusing it.

Boren: The votes in both Chambers that have required recesses this afternoon are a problem of bicameralism that we're trying to do something about.

### Panel Presentation by Senator David Pryor, Chair, and Senator William S. Cohen, Ranking Minority Member, Senate Special Committee on Aging

#### Senator David Pryor

The Senate debated continuing the Aging Committee last February, and voted to keep it. Investigation, oversight, and service by this panel make Congress more



responsive to 31 million older Americans. Though it lacks legislative authority, its work complements that of the standing committees. Without it, other panels would not have the time or structure to do the same things; for example, look at the existing agenda of the Finance Committee. The Aging Committee is uniquely a service committee for the Senate; as its creators in 1961 argued, it permits a comprehensive review of elders' concerns that would otherwise be fragmented among several panels. When Congress receives the health reform plan, for example, we will be able to assess its impact on elders, and when Mrs. Clinton met with Members of the Finance and Labor Committees, she also met with us.

We do not duplicate other panels, but initiate investigations and proposals that others take up and enact. We have responded to 47,000 requests for assistance on benefits, Medicare, insurance, and nursing homes. We have sent 70,000 copies of our report on programs offering free prescription drugs. We spend \$1 million a year, but one measure we're responsible for will save taxpayers \$6.7 billion. We're now looking into reducing Medicare costs. Drug companies and peddlers of fraudulent insurance and solicitations might like to see the panel abolished.

The Senate also decided to keep the Aging Committee in 1977 when it last examined committee jurisdictions. An earlier meeting of the Joint Committee discussed other select committees that have become legislative, and I said that maybe Aging should too, but in fact I believe it should continue as it is; it should not become a symbolic cut. I wish to insert lists of letters of support from organizations (and not only those that represent seniors), and of our hearings, publications, and accomplishments.

#### Senator William S. Cohen

On some issues, like Intelligence as well as Aging, we must put away partisan swords and resist temptation, as Russell Long said, to "don't cut me, don't cut thee; cut the guy behind the tree." We need a rule of reason, not of thumb. In 1961 the Senate established the Aging Committee, because it realized that it needed a comprehensive look at aging issues, and more effective oversight, hearings, and investigations, whose results could be passed on to legislative committees. This judgement was reaffirmed in 1977 when the Committee was made permanent. Now that statistics show the needs of the aged growing exponentially, we must keep the capacity for a comprehensive view of this issue.

The Joint Committee also wants to abolish fragmentation, and Aging is the one committee that integrates. If the panel was abolished, the workload and staff would not disappear, but would go elsewhere, and would become fragmented. In many instances this Committee has saved taxpayer money. This time of calls for comprehensive approaches to health care, income security, etc., is the wrong time to abolish the Committee. The Aging Committee also explores new areas that others might dismiss as fringe or cutting edge, such as the promise of music as therapy for Alzheimer's disease, and the health roles of art and meditation.

Reform doesn't mean just shuffling the boxes. To eliminate fragmentation, we could consolidate authorizing and appropriation functions, limit committee service,

and mandate time for real debate. We must change the way we conduct business, especially on the floor. For example, an attempt was recently made to amend a bill on the floor with campaign finance legislation, on which the parties are deadlocked. Leaders cannot stop such actions; Senators themselves must resist the temptation to offer unrelated amendments. Doing so just for political advantage is different from doing so because a Member is denied the chance to have a committee consider the measure. We need a moral, if not a parliamentary, authority to discipline Members in that practice; if not, changing the charts will be of no avail.

### Questions and Answers

Boren: Would you favor a germaneness rule?

Cohen: If it had enough flexibility to protect a Member whose measure is blocked in committee. Both Senator Pryor and I have background in the House, where amendments must be germane and time is limited. The Senate has a different function; here, there must be a compromise, or we're debating only for political reasons. I'd prefer to see the leaders crack down on individual Members, an informal rule Members would observe, and informal repercussions on Members who abuse it. We should exercise discipline and supply more power for the leaders.

Boren: Would you limit the number of non-relevant amendments a Member could offer? Would you advocate a rule that you can't bring up the same subject matter over and over again?

Cohen: Today, when people come to the Senate gallery expecting Daniel Webster, instead they may see a mostly empty chamber arguing about whether to call off a quorum call and recess for the night. They don't fully comprehend why we do all this. Neither do I.

Boren: I'm not sure we're going to see the spirit of self-restraint revive itself. With more fragmentation and less ability to have control in our society, Members feel they gain more politically by following their own agendas, including by repeating the same nongermane amendment. If we could get our business done better, we might impact some of the fragmentation and division in the country; but we all know we'd be giving up something.

Cohen: Committee members spend days developing expertise on the defense authorization bill, and then as soon as it hits the floor there are 150 amendments pending, by those who have not sat and heard the evidence. We must return to deferring to the Members who are delegated to develop that expertise. I hope you'll help us as the Joint Committee moves from structural to procedural issues.

Pryor: A few years back, Senators Dole and Byrd appointed a group, called the "quality of life committee" for some reason, to look at some possible changes, but it failed. Now the Chairman is talking about things Senators might give up. Isn't it time to give up something in order to gain something -- respect from citizens? We're farther from solving those problems than before.

Boren: I hope we can do that, and I hope you'll bring some of that group's ideas back into our deliberations. We need to look at placing holds on bills, for example.

Domenici: You make a good case that we need more oversight, and you make this case because that's what you do. I hope this reform effort somehow results in making committees more responsible for oversight. A two-year cycle, with one year for appropriations and budget and the second for legislation and oversight, would yield more time for oversight.

On Aging, I tend to agree that because of the magnitude of the problems and the impact of Federal law on pensions, someone must focus on oversight. Though the Finance Committee is excellent, I don't know that with their diverse substantive jurisdiction they can do oversight and legislation in this area. But I'm not totally satisfied with assigning this role to Aging, if it means they can pick and choose what topics they like. Though the process is bipartisan, it makes for choices of politically exciting topics, and oversight isn't just about making news, but getting into the bowels of government and seeing whether individual laws are working. I don't want to relinquish that to GAO; I want to place it back in our hands, though I don't know how. How do we force oversight on ourselves and make committees do it responsibly? It will require more discipline, and not only on the floor.

Senator Byrd says the Senate is suffering from fractured attention. Do we have too many jobs? Are we on too many committees? We have to worry not only about floor activity, but also about the impact of committees. Members don't care much about what's happening on the floor if something exciting is going on in committee. We must follow rules that make people come down to the floor and state their case; we must give leadership new ways to make that happen; and Members must be responsive to what should go on.

Cohen: I'd like to see bills read by title. The Parliamentarian says that can't be done effectively without a germaneness requirement. But I get frustrated sitting and waiting all day for debate, and then we vote at midnight. It's destructive to Members with young families, when they're not home to counsel their kids and when they're gone on weekends. I'd favor rules changes to foster our responsiveness to pending legislation.

Anyone watching us on television will see people out to protect what they've got, but I think we're willing to give up something. I'd trade all my Armed Services seniority to merge the authorizing and Appropriations Committees. The split wastes time and energy. Or to merge Governmental Affairs and Judiciary. I may be the only Senator who voluntarily gave up a chair, the chair of Indian Affairs, because I couldn't handle it simultaneously with the Armed Services workload.

In the next decade, the problems of aging will be further magnified.



Boren: Well, I offer you a challenge to help us on some of these issues you raise, where you have expertise. Do you favor reducing the number of committee assignments?

Pryor: I'd support it. There are two issues, which have to be dealt with separately: whether there are too many committees and whether there are too many assignments. I say yes to both.

Boren: Does the Aging Committee have subcommittees?

Pryor: No. We don't want this to be a Committee that just looks at hot topics. We allow each Member to hold a field hearing in their State on a subject of their choice.

#### Senator Dale Bumpers, Chair, Senate Committee on Small Business

Originally I saw no need to clutter the record by testifying, but I think we need an overhaul. Committees are too large, and we let Members serve on additional ones. I don't, because I can't do justice to the work; I had four simultaneous subcommittee meetings this morning as it is. If we cut committees, and nobody served on more than two, we wouldn't have to run around as much and would also be better prepared.

I decided to testify because I heard a Senator advocate abolishing the Small Business Committee. Go ahead, if you want to do it for the cost savings, but I defend our work; with a small budget we do much to create jobs. President Clinton campaigned on small business as an economic locomotive. Most businesses are small businesses, and big business has laid off 500,000 people while small business has generated 4,000,000 jobs.

For example, banks aren't making small business loans, because small loans cost no less than big ones and the risk is higher. As a result, the whole year's funding for our program to guarantee 80% of small business loans has already been used up. Also, in response to recent natural disasters in Oklahoma, there are about 13 small business loan programs that are now in there providing relief. And the stimulus program included \$141 million that would have generated \$2.6 billion of loans and 37,000 jobs; over four years it would have created 110,000, and returned \$347 million in taxes. Further, the Small Business Investment Program makes loans to people who put up matching money and take equity positions in expanding businesses. Examples include ten companies that started with a total of 1150 people, and have now become well known and returned enough in taxes to fund the entire Small Business Administration.

You could move small business jurisdiction to Commerce or Banking, but abolishing the Committee because it doesn't "fit," or to reform Congress, would send the worst signal. You wouldn't even save even our \$1 million budget; you'd need to spend more than that to give proper attention to small business, and it wouldn't be as effective.



### Questions and Answers

Domenici: The same concerns I have on Aging apply to Small Business as well. I want to see that small business problems will have a hearing up here.

Bumpers: We have little legislative jurisdiction, but hold many hearings on bills of other committees that affect small business, and have stopped many that would have devastated small businesses. A hearing we held was responsible for killing the High Risk Notification bill, which was a trial lawyer's dream. Many Senators have never met a payroll and don't understand the costs you're imposing on businesses.

Boren: Can we reduce the number of subcommittees? Chairs feel the need to give each Member a subcommittee, which fragments jurisdiction and distorts the agenda. We have several Members who serve on 20 or more panels, up to 23.

Pryor: When I was first here, I got CBO to do a study of subcommittees. It found there were 170 subcommittees, 25 of which hadn't had a meeting in two years, but they had staff.

### Representative William Clinger, Ranking Minority Member, House Committee on Government Operations

The Government Operations Committee, and predecessor oversight committees, have a long history, and I submit a bibliography showing that Congress engages in much oversight. This oversight should continue on a bipartisan basis. Though we're not the only committee with oversight jurisdiction, we have a particular advantage because we don't also authorize or appropriate for the agencies we oversee. Such jurisdiction should continue to be assigned to one committee.

One problem that should be fixed is that of staff reports, which are released without a hearing or vote of the Committee, and sometimes fall short in fairness or integrity, yet the press may not distinguish them from Committee reports. Such reports are no more appropriate than having Appropriations Committee staff report appropriations.

Boren: I agree; I've seen situations in which this mechanism can be abused.

Clinger: I also believe that where one party controls the White House, the other party should control Government Operations. It's the same rationale as for independent prosecutors. Or, like the Ethics Committee, the membership should be equally divided. Today the ratio is like any other Committee.

We should also make sure the Committee can be an effective watchdog. Currently there are 18 minority and 75 majority staff, and the majority gets 84% of the funds. However, the Chair is making a good faith effort to rectify this situation.

The minority should also have the ability to subpoena documents. It now requires a majority of the committee, so it becomes a party-line vote. I'd suggest three Members, with an enforcement mechanism.

Boren: We allow five Members to do it.

Clinger: Finally, the idea of "inherently governmental" activities, that may not be performed by contractors, should be extended to committee activities that should not be performed by contractors or detailees, but only by regular committee staff and Members, who are accountable and subject to law. There are too many examples of GAO, CRS, and Executive staff who didn't only contribute their expertise, but got into things that should be the province only of Congress itself.

### Questions and Answers

Boren: You also have legislative jurisdiction, for creating new Departments. Could this be made a joint committee?

Clinger: Yes, and we also created the Inspectors General. It could be joint; it would serve just the same role, and would improve the process. It would also facilitate communication.

Boren: We have problems of implementation in common; making it a joint committee might focus more attention on its recommendations. This Committee hasn't focused on the possibilities of joint committees, or on problems that lie not only in party polarization but also in intercameral communication. Mutual understanding through working together could enhance bicameral cooperation on issues. Now we only see each other only in conference, which is often confrontational, and that adds to gridlock.

Clinger: We've been trying to build up relations and communication between our two committees.

Boren: How many subcommittees do you have now? The real growth in committees has been in subcommittees. Many think we can make progress toward reform by reducing the number of subcommittees and the number on which a Member can serve. Do you agree?

Clinger: Totally. Our current subcommittees number six. Having too many panels increases fights over who's going to deal with an issue. And Members often show up at subcommittee hearings only in order to be marked present, without understanding the issues involved.

Boren: Senator Domenici said that we're risking delegating the oversight function to GAO. We also tend not to set priorities in making use of GAO, because we incur no out of pocket expense from using them. We treat them as a bottomless pit of funds and staff, and they get overwhelmed. Do you feel the committees and

Members should do more oversight ourselves, and find a way not to run out of control in using GAO?

Clinger: Yes. When we overextend GAO and the others, the work product becomes questionable, and then we say they aren't doing what we want, so we cut their funding. And they have to respond to every request, whether they can do so effectively or not. We should be doing oversight ourselves.

Boren: And we should be setting the priorities. This function must be bipartisan, and should be aggressive. At the state level, when I wanted to investigate the administration of my own party I often couldn't get the resources to do it. But how would you charge it? Against the committee budget, or have the leadership control it? I know there are many requests to GAO I've just signed off on.

Clinger: Yes, its easy to sign those letters.

Boren: We must set priorities with our own staff, and with limited resources.

## HEARING SUMMARY, May 13, 1993

**Five Witnesses:** Senator Bob Graham, Representative Butler Derrick, Representative Benjamin Gilman, Representative Don Young, Senator Dennis DeConcini.

Vice Chairman Dreier opened the hearing.

Senator Bob Graham

Stated that the 103d Congress is under special scrutiny, as voters sent 110 new Members to the House, and demanded an end to business as usual. His goal is to outline the merits of bringing government into the sunshine, specifically the amendment of rules governing access by Members, staff and the public to the meetings and materials of congressional committees.

Argued that the problem is that too many legislative decisions are made out of the public's view, leading to public distrust of government. Even Members are excluded from certain proceedings, as existing rules don't ensure a member timely access or the opportunity to fully participate in the process, much less adequate notification of meetings.

Outlined three specific problems that have arisen due to the closed-door method of operation. First is the rise in public skepticism of government. Cited the results of various polls which demonstrate a precipitous decline in public trust in government from 1964 to 1993.

The second problem is absence of full and useful contributions by all Members due to the poor notification system. For example, Senate Rule XXVI, which covers committee notifications of meetings, requires only that committees make "public announcement" of the date, place, and subject matter of a hearing at least one week in advance, unless the committee determines there is "good cause" to begin the hearing earlier. Argued that this "sunshine requirement" raises more questions that it resolves, such as:

- 1) How is the required public announcement to be made and where should one look for it?
- 2) Why does the requirement only apply to hearings? What about markups, etc.?
- 3) Why doesn't it apply to subcommittee business?
- 4) Why doesn't the announcement have to include the time, as well as the date, place, and subject matter of the hearing?
- 5) What constitutes "good cause" for beginning the hearing at an earlier date?



6) Why are the Budget and Appropriations Committees exempt from the "public announcement" requirement? Do they have any obligation to announce scheduled proceedings?

The third problem is the making of bad public policy. Used the 1980 banking bill as an example of shadowy deal-making, where decisions were made in conference about federal deposit insurance, thus receiving little attention on the floor. Argued that this behind-the-scenes legislation resulted in the S & L disaster.

Stated that Congress should look to the State legislatures for solutions to these problems, as many have fashioned rules which make them more accountable to themselves and the public. These include, among other things, "open meetings" and "open records" statutes.

Proposed that the Joint Committee study the rules of the House and the Senate with the goal of improving public access. To do this, it should ask itself the question: what are the rights of Members, staff, and the public to timely notification of, and access to, proceedings and materials of congressional committees?"

Made three specific recommendations regarding committee and subcommittee meetings:

1) Requirements and procedures for the timely notification of scheduling, including the time, date, place, subject matter, and participants of all meetings (including hearings and mark-ups) as well as subsequent changes in this information.

2) Standards and procedures for closing certain meetings to Members, staff, or the general public.

3) With respect to hearings and mark-ups, the timely availability of all printed material to Members, staff, and the general public.

Made three specific recommendations regarding conference committee proceedings:

1) Requirements and procedures for the timely notification of scheduling, including the time, date, place, subject matter, and participants of all meetings (including hearings and mark-ups) as well as subsequent changes in this information.

2) Standards and procedures for closing them to Members, staff, or the general public.

3) Timely availability of all printed material to Members, staff, and the general public (including proposed amendments, report language, etc.).

Stated that in debating the substance of his recommendations, the Joint Committee should consider:

- 1) Whether there should be different rules for Members, staff, and other interested persons, generally.
- 2) Whether there should be different rules for committees and subcommittees, and what discretion, if any, subcommittees and committees should individually have to depart from rules of general applicability.
- 3) Whether the rules applicable to Members and staff who are on particular committees or subcommittees should differ from rules applicable to those who are not on them.
- 4) Whether the rules applicable to Members and staff who are on conference committees should differ from the rules applicable to those who are not on them.
- 5) Whether a general presumption in favor of open meetings and unrestricted access to materials should be established, together with rules that clearly articulate:
  - a) appropriate grounds for closing meetings, or denying access to materials, to Members, staff, or others
  - b) the burden of proof regarding such grounds
  - c) requirements and procedures for the vote necessary to close meetings, or deny access to materials, to Members, staff, or other interested persons
  - d) the availability of an appeals process

#### Questions and Answers

Dreier: I was wondering what your thoughts are on a proposal made to the House requiring all meetings to be open save those involving national security.

Graham: I think there should be a strong presumption of openness regarding all aspects of all committees. Further, there should be a high standard for closing meetings.

Dreier: You seem to be especially concerned about closed meetings.

Graham: Yes, and the committees intimately involved with raising and spending money, Appropriations and Budget in the Senate, are excluded from openness requirements. There is a justifiable reason for public skepticism and disillusionment.

Dreier: Many argue that there is increasing posturing on the House and Senate floor because of increased openness-- what are your thoughts?

Graham: The quality of public policy and the level of public confidence is much improved in a process of openness than one of dank darkness. These charts show what the public thinks of closed meetings.

Dreier: What are your thoughts on merging the Armed Services Committees with the Intelligence Committees? What about the proposal of a Joint Intelligence Committee?

Graham: I have only served on Intelligence since January, so my experience is limited. As we move into the post-Cold War era, the nature of intelligence operations has changed, therefore there is less reason to merge Intelligence with Armed Services than before. Now we are using intelligence operations for many reasons other than military. The idea of a Joint Intelligence Committee deserves serious consideration, as it would bring a valuable combination of perspectives, especially since we are primarily involved in oversight and not legislation.

Hamilton: How do you feel about a rule requiring Members to be notified ahead of time of amendments in writing?

Graham: It should be standard, and there should be a high standard for exceptions.

Hamilton: How do you feel about non-germane amendments -- they create frustration in the House.

Graham: There should be a rule requiring germaneness in the Senate -- I have advocated this. If there were, the quality of consideration and debate would be improved, as Senators would not be caught by surprise.

Hamilton: Are you supportive of a rule regarding layover requirements for conference reports, so that Members could familiarize themselves with them?

Graham: Absolutely.

Hamilton: There are different proposals out there regarding a restructuring of the committee system. How receptive would the Senate be to a restructuring?

Graham: I think you know that answer better than I. All institutions, especially the U.S. Senate, are reticent to change.

Hamilton: If we made major recommendations for change, how would you react?

Graham: I would give it serious consideration, and would not automatically reject it.

Lugar: As you know, in the Senate there is a desire for openness, but also an advocacy for results. Near the end of a session, since Members are eager to leave,

those who want to delay or surprise others are at an advantage. This is especially true regarding large tax or appropriations bills. I suppose one remedy for this is to extend the session in order to give people the time to read the final product.

Graham: There are elements of basic human nature which transcend Congress -- people procrastinate, and this is not unique to Congress. Congress is designed to be protective of the status quo. I do not believe my proposal is incompatible with the desire to get results.

#### Representative Butler Derrick

Outlined five changes Congress should make in order to streamline its procedures, eliminate duplication of effort, and increase overall coordination.

- 1) Fold the Ways and Means, Appropriations, and Budget Committees into a single committee which would write the budget.
- 2) Eliminate proxy voting, as it encourages absenteeism.
- 3) Consolidate committee jurisdictions to reflect current needs, as the existing system is based on the needs of post-WWII.
- 4) Limit Members to a single committee assignment.
- 5) Create a Rules Committee for the Senate similar to that of the House.

#### Questions and Answers

Hamilton: This new committee would have disproportionate power, in that all spending and revenue-raising power would be in its jurisdiction. What are your reactions?

Derrick: Yes, but the committee would still be bound by the rules of the 1974 Congressional Budget Act.

Hamilton: How large would this committee be?

Derrick: About 60 or so members. Right now, the budget process is too disjointed, there is no consolidation of effort, and there is no accountability.

Hamilton: Would welfare, trade, and social security issues be controlled by the new committee?

Derrick: The financial part of them would.

Dreier: When this Joint Committee comes up with a proposal, it will probably be referred to the Rules Committee and the subcommittee you chair. What



recommendations do you have regarding the development of a package that can be passed?

Derrick: You shouldn't worry about floor passage. You should just do what needs to be done; if you hedge your bets regarding the House and Senate reactions you will get nowhere. You should just make a bold proposal.

Dreier: Do you think there is much of a chance of a significant package passing?

Derrick: It will be extremely difficult, because everyone has a piece of turf. But you shouldn't be anticipatory -- do what need to be done.

Dreier: Have you looked at any of the proposals to restructure the committee system?

Derrick: No, but something needs to be done. For example, the Agriculture Committee has a jurisdiction irrelevant to agriculture. This is because it was set up when much of the U.S. was farmers. Its jurisdiction needs to be consolidated to reflect current times.

Dreier: Do you think Energy and Commerce has a jurisdiction that is too big?

Derrick: It has a tremendous jurisdiction, and it should be subjected to the parameters I suggested.

Solomon: I am intrigued by your merger proposal. I am strongly supportive of Senator Nancy Kassebaum's proposal to eliminate the Appropriations Committees.

Derrick: It is not a matter of elimination, but of consolidation. The process is too disjointed, especially that of expenditures.

Solomon: It is definitely not working. What are your thoughts on multiple referrals? It seems that many good bills are tied up in committees because of them.

Derrick: Refining jurisdictions would eliminate the problems associated with multiple referrals. This would be another positive result of realignment.

Solomon: We need to work with the Rules Committee, and your subcommittee in particular, to develop a passable program.

Derrick: You should just come out with a bold program, and let the parties deal with passing it.

Reid: How would you merge the three committees?

Derrick: The specifics are up to the leadership.

Reid: I have served on Appropriations, and don't see how they would have the time to do both tax-writing and appropriations.

Derrick: If that's all they had to do, they could do it. Our current process is so disjointed, there is no accountability.

#### Representative Benjamin A. Gilman

Stated that a few aspects of committee operations concerned him, and presented many possibilities for abuse. First is proxy voting. Second, the new, so-called "rolling" quorum. Third, the disproportionate allocation of committee investigative staff and committees resources between the majority and minority.

The final concern is that there is no mechanism available to committee Members to ensure that committee procedures -- and the precedents that may be followed in those procedures -- are consistent with the standing rules of the house. As it stands now, committee members have little recourse to either rulings of the Parliamentarian or to enforcement of points of order in the House, to seek redress for the use of any inappropriate procedures in committee.

Recommended the following solutions to these problems:

- 1) Elimination of clearly objectionable committee procedures such as proxy voting and rolling quorums.
- 2) Clearly setting out in the House rules the right of the minority to one-third of a committee's investigative staff, a proportion which equals that given to the minority under the rules governing the use of statutory staff.
- 3) The provision of more parliamentary guidance to committees regarding their actual procedures, not just the rules that they adopt.

Moved on to discuss the usurpation of the Foreign Affairs Committee's jurisdiction by the appropriations process. Argued that appropriators, with assistance from waivers of House rules which forbid authorizing in appropriations bills, time and time again step in and become foreign policy-makers. Suggested two solutions to the problem:

- 1) The incorporation of the Appropriations Committees into the authorizing committees. Views this as the best solution. Short of this, urged that current House rules forbidding authorizing in appropriations bills be er. 'rased. Stated his advocacy of a rule preventing any appropriations bill from being considered on the floor unless the authorizing legislation has already been approved.
- 2) The use of special procedures in each chamber for the convening of temporary, special committees composed of appropriators and relevant authorizers

to mark-up appropriations bills when the necessary authorizing legislation has not yet been enacted.

Also commented on recent proposals to combine the Foreign Affairs and Armed Services Committees. Argued that there is a continuing need for the Foreign Affairs Committee to conduct its own oversight and legislative review in the areas of peacekeeping and weapon sales and proliferation.

In closing, asked that any changes in committee structure and procedures state that the minority is to be informed and consulted to the maximum degree possible. Also asked that the House leadership move more slowly when moving omnibus emergency legislation dealing with foreign affairs through the Congress, as it undercuts the purpose of the Foreign Affairs Committee, and short-circuits the deliberative process. Finally, requested that the Joint Committee on the Organization of Congress do whatever it could to minimize scheduling conflicts facing Members as they balance the demands of the chamber, committees, states, and districts.

### Questions and Answers

Dreier: What are your thoughts on merging some of the issues currently under the purview of Foreign Affairs with other committees?

Gilman: There should be some room for doing that.

Dreier: Could you live with a reduction in the number of subcommittees?

Gilman: All of us should make an effort to streamline our committees.

Dunn: What political problems do you see associated with the elimination of proxy voting?

Gilman: The only way is to reduce the number of subcommittees, as proxy voting is used as a means of juggling the demands of so many assignments.

### Representative Don Young

Began by referring to the 14 committee reorganization options, almost all of which would abolish the Merchant Marine Committee, drafted by the CRS for the Joint Committee. Argued that destroying the Merchant Marine and Fisheries Committee would reduce the efficiency of the House.

Argued that the Merchant Marine Committee is unique in constantly achieving consensus before going to the floor, thereby avoiding lengthy, time-consuming battles. This method improves the efficiency of the chamber.

Referred to the Magnuson Fishery Conservation and Management Act and other laws crafted by the Committee, saying that they developed a commercial fishing industry which landed over \$3.8 billion in 1991. Also discussed the Oil Pollution Act, which is helping to keep waters safe, and the National Sea Grant College Program Act, which adds to national research on global warming and educates youth. Argued that through the Committee's jurisdiction over the Coast Guard, it helps to provide safe, reliable transportation, the means to slow the influx of drugs, and enforcement against driftnet fishing pirates.

Cited workload statistics for the Merchant Marine Committee, where it received 314 House bills in the 102d Congress, and enacted 102 of them (32.5%). The Interior Committee, on the other hand, enacted only 116 of the 479 House bills referred to it (24.2%).

Stated that the Joint Committee should protect the Merchant Marine Committee since it efficiently produces legislation that benefits everybody. Argued that if the Joint Committee is seeking to eliminate committees, it should start with the Committee on Natural Resources, although he did not advocate this. The Natural Resources Committee shares jurisdiction with three other committees: Agriculture, Energy and Commerce, and Merchant Marine and Fisheries. Further, it only enacts less than one-quarter of the bills which it receives. Pointed out that the Committee is torn by partisan bickering, and that every roll call vote is decided along party lines.

In closing, suggested that the Congress ban TV cameras from the floor, as their presence encourages posturing and takes away from quality debate and solid legislation. Also suggested that committees' staff sizes be cut down as they are too large.

### Questions and Answers

Hamilton: Are you suggesting that conference committees also close their doors?

Young: Yes, because it is very difficult to sit in a room and make effective decisions when lobbyists are right behind you -- we are too pressured.

Dunn: What are your thoughts on the balance of staff between the majority and minority?

Young: The major weakness is the size of committees' staff. Too many subcommittees leads to too much legislation-writing and decision-making by staff. If we cut back on the number of subcommittees, we won't need this amount of staff, and we can write better legislation.

Dunn: What are your thoughts on proxy voting?



Young: The most perverted system in this Congress is proxy voting. Because of the abundance of subcommittees, people cannot be there. If we eliminate some subcommittees, people will be there, and we won't need proxy voting.

### Senator Dennis DeConcini

Opened by referring to current proposals to either combine the House and Senate Intelligence Committees or fold their jurisdiction into other committees. Stated that the Congress should not enact any such proposal, as the current arrangement is working fine.

In arguing for maintaining the status quo, recalled why Congress created the two Intelligence Committees in the first place. First, the Church and Pike Investigations of the 1970s demonstrated that oversight of the intelligence community was severely lacking. Second, the funding for intelligence was subjected to little scrutiny. These slip-ups led to multiple abuses by intelligence agencies, including unchecked domestic spying and covert assassination plots. To correct these problems, the Senate established its Intelligence Committee in 1976, and the House in 1977. Any elimination of these Committees increases the chance that any given administration will be drawn into the future misuse of executive authority.

Also argued that, with the end of the Cold War, the scaling back of intelligence activities requires greater oversight. Now, how intelligence resources and capabilities are deployed is far more problematic and less automatic.

Moved on to discuss the method by which intelligence activities are funded. Pointed out that for the budget for the CIA and other intelligence agencies is buried within the Defense Department budget in line items which mask the intelligence purpose. This is done in order to keep the intelligence budget secret. This precludes any administration from assessing separately what is being spent on intelligence overall against other spending priorities. Further, these line items are developed multiple times in the congressional funding process, as the Intelligence, Armed Services, and Appropriations Committees each draw up an intelligence budget. To correct this complex system, Congress should establish separate authorization and appropriation bills for intelligence, so that the intelligence budget could be assessed against spending on other initiatives. This change would boost openness and accountability in the intelligence policy making process.

### Questions and Answers

Boren: What is your reaction to proposals to merge the Intelligence and Armed Services Committees?

DeConcini: I believe that is taking a step backwards, because the reason for creating the Intelligence Committees was to allow Congress to focus more clearly on Intelligence policy. We wanted to ensure the intelligence community's

compliance with statutes and improve the public's confidence in the intelligence agencies.

Boren: Wouldn't it be dangerous if we made intelligence a child of the military?

DeConcini: I couldn't agree with you more. The military gets input as it is, because the Armed Services Committee is allocated a seat on the Intelligence Committee. In addition, they get sequential referral of our bills. We need to begin focussing on economic intelligence, and this would be undercut if Armed Services oversaw intelligence policy.

Boren: How do you feel about cutting down on committee and subcommittee assignments?

DeConcini: We need to restrict them. The current system isn't a good thing. The problem is too many Senators have secured waivers of the assignment limits. We should make the Senate rules applicable to all Senators -- no exceptions.

## COMMITTEE SYSTEM

### A. History.

Congress has used committees since its first meetings. During the 19th Century the committee system expanded rapidly, especially after the Civil War. The growth of the system mirrored the growth of the Nation, but as new committees were created old ones often were not abolished. The number of standing committees peaked in the House at 61 in 1913; the Senate high figure was 74.

The 20th Century has been one of committee retrenchment. However, not until 1946 did both Houses together overhaul the committee system. The Legislative Reorganization of 1946, the work product of the first Joint Committee on the Organization of Congress, essentially created the modern committee system. It gave committees their first written jurisdictions; drastically reduced the number of full committees, to form 19 House and 15 Senate standing committees; gave each standing committee its first permanent complement of staff, essentially 10 apiece; and prescribed uniform procedures in a number of areas.

### Numbers

The number of full committees has since remained fairly constant. However, there has been a proliferation of subcommittees; from a low in 1950 of 125 standing subcommittees, the number increased to a high of 271 in 1975. Today there are 218 total subcommittees. Altogether there are 266 House, Senate, and Joint committees and subcommittees, making decentralization a distinctive feature of the system.

### Sizes and Assignments

Average committee size has increased along with numbers of panels. For example, from 1947 to 1992 the average size of House standing committees climbed from approximately 25 to 39 Members, and the Senate figure grew from 13 to 18. Increasing numbers and sizes of panels have increased average assignments. From 1947 to 1992, the average number of total assignments per Representative grew from 3 to 7; from 1955-1992, the Senate average increased from 9 to 11. The Senate figure had nearly reached 16 before reforms in the 1970's achieved significant reductions. Also, assigning Members to committees essentially is a party function; each party in each chamber has a panel to make recommendations on committee assignments, which later require approval by the respective party conference (caucus) and chamber. Once assigned a Member is seldom removed from a committee against his or her

### Jurisdiction

Since their codification in 1946, committee jurisdictions have changed relatively little. Revisions to House jurisdictions were made in 1975, due to the efforts of the House Select Committee on Committees ("Bolling Committee"). A second House Select Committee on Committees ("Patterson Committee") amended jurisdictions over energy issues. Senate committee jurisdictions were modified in 1977, by the Temporary Select Committee to Study the Senate Committee System ("Stevenson Committee"). Minor jurisdictional revisions also have occurred in both chambers.

### Select and Ad Hoc Panels -- Multiple Referrals

To supplement the committees of jurisdiction, both chambers have used select and special committees, task forces, and policy summits to handle measures and issues that fall between the cracks or are dealt with by numerous committees and subcommittees. Also, because jurisdictions overlap and today's omnibus measures touch many subjects, the House and Senate permit a measure to be referred to multiple committees in a chamber. In the House, multiple referrals began in 1975; today they constitute a sizeable portion of each committee's workload. By contrast, although the Senate has long permitted multiple referrals, they are seldom used. Most measures instead are referred to one Senate committee only, based on the subject matter that predominates.

### Staffing

Since the 1946 Act accorded committees permanent employees, staff levels have risen dramatically. For example, standing committee staff size has climbed from approximately 400 in 1947 to 3200 in 1992. The largest increases occurred during the 1960's and 1970's, in part due to rivalry between the legislative and executive branches and Congress's desire for independent information. Also, in both chambers majority party committee members usually control a greater share of committee staff and resources. The Senate essentially allows minority members of committees to control one-third of funds for personnel. This is a change that resulted from the work of the "Stevenson Committee." Staff and funds for most House committees are divided into two categories. One-third of a committee's 30 "statutory" staff may be designated by the minority. Under Democratic Caucus Rules, committees need not provide the minority more than 20 percent of "investigative" funds; this level appears to serve as a guideline rather than a minimum or a maximum.



## Procedures

House and Senate Rules and party conference rules prescribe procedures for committees. Committees also have significant discretion and flexibility in adopting procedural rules, consistent with chamber rules, and procedures vary considerably among panels. Currently committees may permit their Members to vote in absentia by proxy, and chamber rules detail proxy procedures. It appears that in the 102nd Congress all Senate standing committees permitted voting by proxy. By contrast, in the House proxy voting was prohibited by four standing committees (and Select Intelligence): Appropriations, Rules, Standards of Official Conduct, and Veterans' Affairs. Panels may establish quorums of one-third of the membership for most activities, although certain actions including subpoenaing witnesses and closing meetings require a majority as a quorum. Regarding hearings, House panels may establish quorums as low as two, and many Senate committees require only one Member.

### **B. Recent Reform Proposals.**

Many Members and outside observers have suggested reforms to aspects of committee structure and procedures. Some have suggested comprehensive reforms, but few such measures have been formally introduced in the 102nd or 103rd Congresses (to date). One such comprehensive House proposal, however, includes provisions requiring committee oversight plans to qualify for investigative funds; equating committee ratios with the House party ratio; ending joint referrals; reducing subcommittees; banning proxy voting; restricting the closing of committee sessions; establishing majority quorums; listing in committee reports each Member's vote on roll call votes; requiring committee documents to be approved by Members or contain a disclaimer; and reducing and reallocating committee staff. In the Senate, one comprehensive reorganization measure would restructure the committee system by changing committee jurisdictions and names, and combining authorizing and appropriating functions in each panel.

Most introduced proposals are narrowly focused. Several would create new committees -- joint, standing, and select. Others pertain to committee memberships, leaders, sizes, and ratios. One such measure changes the manner of electing House committee leaders, while several would limit the Congresses a Member could serve on, or head, a particular committee. Another would limit House committee size to 25 members, and each Member's standing committee assignments to one. Several House proposals would require party ratios on panels to be equal with the chamber ratio.

Introduced measures have dealt with diverse procedures, including limiting the closing of committee sessions and banning proxy voting. Several proposals would reduce committee staff

sizes, and many would require various impact statements or other information in committee reports.

## II. PROBLEMS AND ISSUES.

### A. Numbers of Committees and Subcommittees.

Reformers have noted a number of reasons for reducing the numbers of committees and subcommittees, including the desire to centralize policy making, streamline the committee system, rationalize jurisdictions, equalize committee workloads, reduce the number of assignments per Member, and reduce the number of staff. Among the principal reasons offered for maintaining current numbers is the need for a sufficient division of labor to deal with Congress's enormous workload, to keep the Government process open to outside individuals and groups, and to avoid overburdening panels with additional functions acquired from abolished ones.

*Some arguments in favor of reducing current numbers of committees and subcommittees:*

- Fewer committees and subcommittees could centralize policy making, facilitate the coordination of subcommittee and committee work products, and limit Members' assignments and scheduling conflicts.
- Consolidation of committees and subcommittees could reduce congressional staff size, which some allege may be too large.
- Eliminating panels could reduce jurisdictional overlap, duplication, and fragmentation, and equalize committee and subcommittee workload and responsibility.
- Fewer panels with broader jurisdictions might be less likely to become "captive" of clientele groups seeking to influence legislation, and be more representative of the chamber as a whole.
- Select, special, and joint committees without jurisdiction might duplicate the efforts of standing committees, and cost Congress funds more effectively used by the standing committees. Also, maintaining select and special panels might defy the intent for them to be temporary.

- The large number of subcommittees might fragment congressional activities, and fewer subunits could reduce the points at which jurisdictional conflicts arise among committees.

*Some arguments against reducing current numbers of committees and subcommittees:*

- Abolishing panels might reduce avenues of access for party leaders, the Executive Branch, and interest groups; be viewed as relegating particular issues to a lower congressional priority; and reduce the number of leadership positions, lessening opportunities for Members to influence policy and gain leadership experience.
- Cut backs might reduce availability of congressional staff expertise, and overburden the staff of panels acquiring jurisdiction and workload from abolished ones.
- Reducing the division of labor could alter the specialization norm, especially important in the House, and impede Congress's ability to manage expeditiously its immense workload.
- Select and special committees examine important issues that sometimes fall between the cracks of standing committees, and allow flexibility to deal with emerging issues and circumstances. Joint committees efficiently handle issues pertinent to both chambers, saving Members' time.
- Eliminating subcommittees might overburden full committees and enhance the role of full committee leaders, contrary to the reforms of the 1970's.

#### **B. Assignments, Sizes, and Ratios.**

Reformers assert that reducing committee sizes and assignments would alleviate burdens on Members. They argue, too, that the number of terms a Member may serve on, or head, a particular committee should be limited, and emphasis on seniority for choosing committee leaders should be reduced, in part to encourage fresh perspectives and to identify the best leaders. Some argue that the manner of electing Members to committees could be changed, to allow more control by party leaders. Reformers also suggest that sizes of panels should be fixed and uniform to discourage increasing assignments. Finally, some seek chamber rules requiring party representation on panels in proportion to the overall chamber party ratio, to distribute "fairly" opportunities and power.

Reasons offered for maintaining existing arrangements include that current sizes of panels and numbers of assignments reflect Members' need to participate effectively in policy

making. Rotating committee assignments denies panels of expertise, and heavy emphasis on seniority is fair and results in well-qualified leaders. Also, increasing the leadership role in committee assignments reduces committee autonomy. Establishing fixed, uniform sizes of panels may deny Congress necessary flexibility, and current party ratios on panels so closely approximate chamber ratios as to make reform superfluous.

*Some arguments supporting reductions in sizes and assignments, rotation of assignments, decreased emphasis on seniority, an increased role in assignments for party leaders, fixing sizes of panels, and establishing in rules committee party ratios equal to the chamber ratio:*

- Reducing sizes and assignments could alleviate concerns that Members are spread too thin, have overburdened and conflicting schedules, rely too heavily on staff and outside groups, and can not participate in many committee sessions.
- Rotating committee memberships might yield more Members with fresh perspectives, make committees more representative of the chambers, improve the quality of oversight, broaden Members' knowledge base, and encourage weighing more heavily a variety of factors in choosing committee leaders.
- Decreasing reliance on seniority in determining leaders could allow for more consideration of other factors such as merit, prior service record, future promise, regional representation, and loyalty to party leaders.
- Increasing the leaders' role in choosing committee members could enhance the responsiveness of committees to party objectives, and assignments to committees could be used as rewards for loyal party Members.
- Reducing sizes could increase opportunities for meaningful deliberation in committees. Fixing sizes could increase predictability and stability of memberships and forestall pressures to increase sizes. Establishing uniform sizes might foster changes to reduce differences in workloads and jurisdictional breadth.
- Current committee ratios may give the majority party an advantage in policy making.

*Some arguments against reductions in sizes and assignments, rotation of assignments, decreased emphasis on seniority, an increased role in assignments for party leaders, fixing sizes of panels, and establishing in rules committee party ratios equal to the chamber ratio:*



- Reduced sizes and assignments may not significantly alleviate workload and scheduling concerns due to numerous other demands on Members. They could decrease Members' opportunities to formulate policy, head panels, and serve on panels important to constituents. Also, stricter assignment limits are not needed because Members may voluntarily limit service on panels.
- Rotating assignments might decrease the importance of seniority as a criterion for choosing committee leaders, alter the norm of specialization, decrease the institutional memory of committees, increase Members' reliance on staff, lead to dramatic shifts in policy directions, create problems for agency and interest group staff, result in Members serving on panels that do not benefit their constituents as directly as others, and be very complicated to implement.
- Reliance on seniority largely eliminates possibly destructive competition, allows for predictability, and usually results in leaders expert in House rules and in the norms and issues of the panels they head.
- There is no guarantee that Members appointed to committees by leaders will act consistently with leadership aims, and such leadership authority could reduce the autonomy of committees and of the committee assignment panels.
- Large sizes of panels allow Members to participate effectively in committee business. Adjustment of sizes may be necessary to ensure majority party control, to respond to the changing nature and importance of policy issues and Members' requests for seats, and to avoid bumping Members from panels to reflect reduced party strength following an election. Uniform sizes may be unrealistic, given differing committee jurisdictional breadth, workload, and attractiveness.
- Requiring party ratios on panels equal to the chamber ratio may deny the majority party working majorities on panels and the ability to organize the chamber as it sees fit.

### C. Jurisdictions and Referrals.

Reformers believe it necessary to alter committee jurisdictions to facilitate comprehensive policy making and to reflect contemporary policy issues in jurisdictional language. Further, some favor prohibiting or restricting multiple referrals, alleging they exacerbate policy conflicts among panels. Contrarily, others believe it unnecessary or unfeasible to change current jurisdictions, because policy issues can not be neatly compartmentalized. Supporters assert that multiple referrals allow the necessary flexibility to deal with broad measures and lessen rivalries among panels.

*Some arguments in favor of altering committee jurisdictions and prohibiting or restricting multiple referrals:*

- Jurisdictions may be outdated, fragmented, and overlapping.
- Contemporary problems and issues, such as drug policy, are not reflected in jurisdictional language, and may be divided among too many panels to allow comprehensive policy making.
- Congress's need to rely on select committees, policy summits, and leadership task forces and committees may offer evidence that current jurisdictional arrangements are inadequate.
- Multiple referrals may further fragment and slow policy making and exacerbate inter-committee conflicts.
- Multiple referrals might exacerbate duplication of efforts among panels, inefficiently using Members' time, and might obfuscate accountability for policy making.
- Multiple committees involved with a measure may mean larger conferences, which sometimes are unwieldy and not well-suited for resolving the chambers' differences in legislation.

*Some arguments against altering committee jurisdictions and prohibiting or restricting multiple referrals:*

- Overlap of jurisdictions is impossible to eliminate, because contemporary policy issues are broad, have diverse dimensions, and can not be neatly defined.
- Policy making problems stem largely from difficult, interwoven national problems and not from jurisdictional arrangements for addressing them.
- Any reduction in panels along with jurisdictional change could deprive Members and interest groups from multiple avenues for influencing decision making.

- Multiple referrals are necessary because policy issues can not be easily consolidated in panels, and to alleviate conflicts among panels.
- Multiple panels addressing a measure may bring different perspectives and expertise to policy making, and encourage committees to cooperate to form cohesive policies.
- Multiple referrals may facilitate access to governmental decision making by outside groups.

#### D. Procedures and Other Issues.

Reforms have been suggested in other areas of the committee system. Some are oriented towards reducing and reallocating staff and resources, and changing the funding process in the House. Critics charge that staff are too costly and powerful, that the resources of minority members may be insufficient to participate effectively, and that committee funding procedures are complex and arcane. Others assert that committees and subcommittees need uniform procedures, and that certain procedures, such as permitting proxy voting and establishing low quorums, may discourage committee attendance by Members. Finally, some feel that committee reports may provide an incomplete record of actions.

Contrarily, defenders assert that current committee staff sizes are needed to deal with Congress's huge workload, that staff and resources are fairly distributed between the parties, and that funding procedures are straightforward and satisfactory. They view uniformity of committee and subcommittee procedures as unrealistic given differences in panels' responsibilities and norms. Proxy voting and low quorums are needed given Members' time demands. Lastly, they view committee reports as sufficient for floor consideration of measures.

*Some arguments in favor of changing committee staffing and funding arrangements, procedures, and reports:*

- Staff may be too numerous, powerful, and costly, and perform the work Members were elected to do. Staff cuts also would achieve budgetary savings.
- The current distribution of staff and resources may preclude the minority from fully developing arguments and presenting positions.
- The House committee funding process could be more uniform, simplified, and consolidated, and committee planning could increase, by funding each committee's total staff and expenses through one biennial resolution (abolishing the distinction between "investigative" and "statutory" staff and funds and the permanent authorization for statutory staff salaries).

- Banning proxy voting and increasing quorums could increase attendance at committee sessions, and improve public confidence in Congress and the quality of debate and deliberation. Prohibiting proxies would end any abuses of using them as political favors.
- Lack of uniformity in committee and subcommittee procedures in a chamber may contribute to confusing and conflicting procedures as well as ones that conflict with chamber rules.
- Committee reports may not contain sufficient information for floor action and for public disclosure.

*Some arguments against changing committee staffing and funding arrangements, procedures, and reports:*

- Staff levels should be maintained or increased to enable Congress to manage its workload, and function as a co-equal branch of Government.
- Increasing the minority's staff and funding allotment could intensify partisanship and gridlock.
- Biennial budgeting could decrease oversight of committee activities by the Committee on House Administration.
- Banning proxy voting and increasing quorum requirements could be unrealistic given the number of competing meetings of Members, and could exacerbate scheduling problems of Members and panels.
- Each committee needs the flexibility to determine its procedures, committee leaders need discretion in interpreting and applying rules, and uniformity of procedures may be undesirable given different committee traditions and responsibilities.
- Committee reports usually well-describe committee activities, and committees are not now precluded from including any information useful for floor debate or public understanding of Congress.



**Number of House and Senate Committees and Subcommittees  
103rd Congress**

<b>House of Representatives</b>	
Standing Committees	22
Select Committees	1
Subcommittees, Panels, and Task Forces	119
<b>Subtotal/House of Representatives</b>	<b>142</b>
<b>Senate</b>	
Standing Committees	16
Select and Special Committees	4
Subcommittees, Panels, and Task Forces	91
<b>Subtotal/Senate</b>	<b>111</b>
<b>Joint</b>	
Joint Committees	5
Subcommittees, Panels, and Task Forces	8
<b>Subtotal/Joint</b>	<b>13</b>
<b>Unit Totals</b>	
Committees	48
Subcommittees, Panels, and Task Forces	218
<b>Total/Committee System</b>	<b>266</b>

Sources: Information was derived from telephone surveys by the Joint Committee staff of all House, Senate, and Joint Committees. Surveys were conducted on March 3 and 25, 1993. The data anticipates that the Select Committees of the House (excepting Intelligence) will not be reauthorized.

U.S. House of Representatives, Number of Committees and Their Subcommittees: 1945-1992

Congress	Standing Committees		Select and Special Committees		Joint Committees		Total Panels
	Number, Full	Number, Sub	Number, Full	Number, Sub	Number, Full	Number, Sub	
79 (1945-46)	47	97	7	9	6	NA	166
80 (1947-48)	19	102	3	NA	6	NA	130
81 (1949-50)	19	62	2	NA	10	NA	93
82 (1951-52)	19	73	4	NA	9	NA	105
83 (1953-54)	19	81	2	NA	10	NA	112
84 (1955-56)	19	85	1	5	9	11	130
85 (1957-58)	19	114	1	6	9	12	161
86 (1959-60)	20	120	1	7	11	8	167
87 (1961-62)	20	125	1	7	9	13	175
88 (1963-64)	20	121	1	4	7	13	166
89 (1965-66)	20	125	1	7	9	14	176
90 (1967-68)	20	135	1	6	9	15	165
91 (1969-70)	21	130	2	6	8	15	182
92 (1971-72)	21	120	3	8	8	15	175
93 (1973-74)	22	125	6	7	9	16	185
94 (1975-76)	22	149 <sup>1</sup>	3	4	7	14	199
95 (1977-78)	22	146	7	6	5	5	191
96 (1979-80)	22	150	5	8	4	5	194
97 (1981-82)	22	140	3	7	4	6	182
98 (1983-84)	22	139	5	12	4	6	188
99 (1985-86)	22	140	5	12 <sup>2</sup>	4	6	189
100 (1987-88)	22	140	6	14	4	8	194
101 (1989-90)	22	138	5	9	4	8	186
102 (1991-92)	22	135	5	11	4	8	185

Notes

Source: Data through the 100th Congress were taken from U.S. Library of Congress. Congressional Research Service. Indicators of House of Representatives Workload and Activity. Report No. 87-492 S, by Roger H. Davidson and Carol Hardy. Washington, 1987. p. 36.

Data for the 79th Congress were compiled from U.S. Congress, Joint Committee on the Organization of Congress. Hearings, 79th Cong., 1st Sess., March 13-June 29, 1945. Washington, U.S. G.P.O., 1945. p. 1084. Data for all other Congresses were derived from the Brownson, *Congressional Staff Directory*; Congressional Quarterly, *Congressional Quarterly Almanac* and *Congressional Quarterly Weekly Report*; Monitor Publishing Co., *Congressional Yellow Book*; West Publishing Co., *U.S. Code Congressional and Administrative News*; and lists of committee assignments published by the Clerk of the House of Representatives.

NA indicates that the information is not readily available.

<sup>1</sup> As of the 94th Congress, this figure includes Budget Committee Task Forces. Task Forces of other Standing Committees are not included.

<sup>2</sup> As of the 99th Congress, this figure includes task forces.

U.S. Senate, Number of Committees and Their Subcommittees: 1945-1992

Congress	Standing Committees		Select and Special Committees		Joint Committees		Total Panels
	Number, Full	Number, Sub	Number, Full	Number, Sub	Number, Full	Number, Sub	
79 (1945-46)	33 <sup>1</sup>	57 <sup>1</sup>	7	10 <sup>1</sup>	6	NA	NA
80 (1947-48)	15	61	3	NA	6	NA	NA
81 (1949-50)	15	63	2	NA	10	NA	NA
82 (1951-52)	15	65	3	NA	9	NA	NA
83 (1953-54)	15	66	1	NA	10	NA	NA
84 (1955-56)	15	87	5	NA	11	11	NA
85 (1957-58)	16	85	4	4	9	12	130
86 (1959-60)	16	87	5	0	12	8	128
87 (1961-62)	16	88	2	6	11	6	129
88 (1963-64)	16	85	3	6	11	13	134
89 (1965-66)	16	92	3	6	11	14	142
90 (1967-68)	16	98	5	12	11	15	157
91 (1969-70)	16	101	5	12	10	15	159
92 (1971-72)	17	115	5	13	8	15	173
93 (1973-74)	18	127	7	13	9	16	190
94 (1975-76)	18	122	6	13	7	14	180
95 (1977-78)	15	96	6	12 <sup>2</sup>	4	5	138
96 (1979-80)	15	90	5	10	4	5	129
97 (1981-82)	16	101	4	4	4	6	135
98 (1983-84)	16	102	5	4	4	6	137
99 (1985-86)	16	88	4	0	4	6	118
100 (1987-88)	16	85	5	0	4	8	118
101 (1989-90)	16	86	4	1	4	8	119
102 (1991-92)	16	87 <sup>2</sup>	4	0	4	8	119



Notes

Source: Data through the 100th Congress were taken from U.S. Library of Congress. Congressional Research Service. Indicators of Senate Activity and Workload. Report No. 82-497 S, by Roger H. Davidson and Carol Hardy. Washington, 1987. p. 33.

For all Congresses, unless otherwise noted sources include the *Congressional Record*; lists of committee assignments published by the Secretary of the Senate; Brownson, *Congressional Staff Directory*; Congressional Quarterly, *Congressional Quarterly Almanac* and *Congressional Quarterly Weekly Report*; West Publishing Co., *U.S. Code Congressional and Administrative News*; and Monitor Publishing Co., *Congressional Yellow Book*.

NA indicates that the information is not readily available.

<sup>1</sup> U.S. Congress, Joint Committee on the Organization of Congress. Hearings, 79th Cong., 1st Sess., March 13 - June 29, 1945. Washington, U.S. G.P.O., 1945. p. 1041.

<sup>2</sup> Includes one three-member Ad Hoc Working Group of the Select Committee on Intelligence.

<sup>3</sup> Does not include one task force of a standing committee.

**Average Number of Members Serving on Senate and House  
Standing Committees and Their Subcommittees: 1945-1992<sup>1</sup>**

Congress		Senate Standing Comms.	Subs. of Senate Standing Comms.	House Standing Comms.	Subs. of House Standing Comms.
79	(1945-46)	14.9	7.7	20.0	7.8
80	(1947-48)	13.4	5.3	25.4	7.3
81	(1949-50)	13.5	5.0	25.3	8.6
82	(1951-52)	13.5	5.1	25.8	8.4
83	(1953-54)	14.1	5.7	27.7	8.3
84	(1955-56)	14.1	5.9	28.6	9.0
85	(1957-58)	14.3	6.2	28.7	8.6
86	(1959-60)	15.6	7.3	28.7	9.1
87	(1961-62)	15.0	7.2	29.4	9.0
88	(1963-64)	16.0	7.8	29.5	10.0
89	(1965-66)	15.6	7.9	30.1	10.2
90	(1967-68)	15.8	7.7	29.5	10.2
91	(1969-70)	15.3	7.9	30.1	10.8
92	(1971-72)	14.5	7.8	31.8	12.1
93	(1973-74)	14.3	7.5	32.4	12.2
94	(1975-76)	14.2	7.9	35.4	11.5
95	(1977-78)	16.2	6.9	35.2	11.8
96	(1979-80)	16.8	7.4	34.6	11.3
97	(1981-82)	17.6	6.9	34.2	11.2
98	(1983-84)	18.4	7.6	34.7	12.3
99	(1985-86)	17.6	7.6	35.5	12.4
100	(1987-88)	18.5	8.1	36.7	13.0
101	(1989-90)	18.5	8.3	37.2	13.0
102	(1991-92)	18.4	8.5	38.7	13.5

**Notes**

<sup>1</sup> Data in this table is extrapolated from that contained in accompanying tables on numbers of, and assignments to, committees and subcommittees since 1945.

U. S. House of Representatives, Committee Assignments, 1945-1992

Congress	Total Number of Committee Assignments <sup>1</sup>				Mean Number of Committee Assignments			
	Standing Committees	Subcommittees of Standing Committees	Select, Special, & Joint Committees <sup>2</sup>	Total Panels	Standing Committees	Subcommittees of Standing Committees	Select, Special, & Joint Committees	Total Panels
79 (1945-46)	941	752	113	1,806	2.16	1.73	0.26	4.15
80 (1947-48)	482	742	56	1,280	1.11	1.71	0.13	2.94
81 (1949-50)	481	533	66	1,080	1.11	1.23	0.15	2.48
82 (1951-52)	491	611	78	1,180	1.13	1.41	0.18	2.71
83 (1953-54)	526	670	66	1,262	1.21	1.54	0.15	2.90
84 (1955-56)	542	765	116	1,423	1.25	1.76	0.27	3.27
85 (1957-58)	549	975	145	1,669	1.26	2.24	0.33	3.84
86 (1959-60)	575	1,095	144	1,814	1.32	2.51	0.33	4.15
87 (1961-62)	584	1,128	161	1,873	1.34	2.58	0.37	4.29
88 (1963-64)	594	1,211	137	1,942	1.37	2.78	0.32	4.46
89 (1965-66)	602	1,274	171	2,047	1.38	2.93	0.39	4.71
90 (1967-68)	613	1,378	187	2,178	1.41	3.17	0.43	5.01
91 (1969-70)	637	1,403	186	2,226	1.46	3.23	0.43	5.12
92 (1971-72)	674	1,450	216	2,340	1.54	3.32	0.49	5.36
93 (1973-74)	710	1,531	261	2,502	1.62	3.49	0.60	5.70
94 (1975-76)	770	1,719	210	2,699	1.75	3.92	0.48	6.15
95 (1977-78)	776	1,716	259	2,751	1.77	3.91	0.59	6.27
96 (1979-80)	764	1,692	242	2,698	1.74	3.85	0.55	6.15
97 (1981-82)	757	1,564	235	2,556	1.72	3.56	0.53	5.81
98 (1983-84)	765	1,710	277	2,752	1.74	3.89	0.63	6.26
99 (1985-86)	781	1,734	323	2,838	1.77	3.94	0.74	6.45
100 (1987-88)	807	1,822	431	3,060	1.83	4.14	0.98	6.95
101 (1989-90)	818	1,794	376	2,988	1.86	4.08	0.85	6.79
102 (1991-92)	851	1,818	428	3,097	1.93	4.13	0.97	7.04



# Notes

Source: Data through the 100th Congress were taken from U.S. Library of Congress. Congressional Research Service. Indicators of House of Representatives Workload and Activity. Report No. 87-492 S, by Roger H. Davidson and Carol Hardy. Washington, 1987. p. 37.

Data for the 79th Congress were compiled from U.S. Congress, Joint Committee on the Organization of Congress. Hearings, 79th Cong., 1st Sess., March 13-June 29, 1945. Washington, U.S. G.P.O., 1945. p. 1084. For all other Congresses, sources include lists of committee assignments published by the Clerk of the House of Representatives; Brownson, *Congressional Staff Directory*; Congressional Quarterly, *Congressional Quarterly Almanac* and *Congressional Quarterly Weekly Report*; West Publishing Co., *U.S. Code Congressional and Administrative News*; and Monitor Publishing Co., *Congressional Yellow Book*.

<sup>1</sup> Beginning with the 92nd Congress, Delegates and Resident Commissioners were permitted to vote in committee. Accordingly, since then they have been counted in these figures. In the 102nd Congress there were 435 Representatives, four Delegates, and one Resident Commissioner, for a total of 440 Members.

<sup>2</sup> Figures include all House members of select, special, and joint committees and their subcommittees.

## U.S. Senate, Committee Assignments, 1945-1992

Congress	Total Number of Committee Assignments						Mean Number of Committee Assignments					
	Standing Committee	Subs. of Standing Comms.	Select, Special, & Joint	Subs. of Sel., Spl., Jt.	Total Panels	Standing Committees	Subs. of Standing Comms.	Select, Special, & Joint	Subs. of Sel., Spl., Jt.	Total Panels	Standing Committees	Subs. of Standing Comms.
79 (1945-46)	489	437	98	NA	NA	509	455	102	NA	NA	509	455
80 (1947-48)	201	326	62	NA	NA	209	340	0.65	NA	NA	209	340
81 (1949-50)	203	313	62	NA	NA	212	326	0.62	NA	NA	212	326
82 (1951-52)	203	332	67	NA	NA	212	346	0.70	NA	NA	212	346
83 (1953-54)	211	373	63	NA	NA	220	389	0.66	NA	NA	220	389
84 (1955-56)	212	514	100	48	874	221	535	1.04	0.50	9.10	221	535
85 (1957-58)	228	530	98	36	892	238	552	1.02	0.38	9.29	238	552
86 (1959-60)	250	631	116	66	1,063	250	631	1.16	0.66	10.63	250	631
87 (1961-62)	240	636	95	59	1,030	240	636	0.95	0.59	10.30	240	636
88 (1963-64)	256	660	101	86	1,103	256	660	1.01	0.86	11.03	256	660
89 (1965-66)	250	727	101	154	1,232	250	727	1.01	1.54	12.32	250	727
90 (1967-68)	252	752	120	165	1,289	252	752	1.20	1.65	12.89	252	752
91 (1969-70)	245	797	110	184	1,336	245	797	1.10	1.84	13.36	245	797
92 (1971-72)	247	895	124	197	1,463	247	895	1.24	1.97	14.63	247	895
93 (1973-74)	258	946	148	217	1,569	258	946	1.48	2.17	15.69	258	946
94 (1975-76)	240	969	120	228	1,557	240	969	1.20	2.28	15.57	240	969
95 (1977-78)	243	658	84	69	1,054	243	658	0.84	0.69	10.54	243	658
96 (1979-80)	252	668	78	76	1,074	252	668	0.78	0.76	10.74	252	668
97 (1981-82)	282	693	76	68	1,119	282	693	0.76	0.68	11.19	282	693
98 (1983-84)	295	771	80	49	1,195	295	771	0.80	0.49	11.95	295	771
99 (1985-86)	282	672	74	47	1,075	282	672	0.74	0.47	10.75	282	672
100 (1987-88)	296	688	84	30	1,098	296	688	0.84	0.30	10.98	296	688
101 (1989-90)	296	713	75	33	1,117	296	713	0.75	0.33	11.17	296	713
102 (1991-92)	294	738	83	30	1,145	294	738	0.83	0.30	11.45	294	738

# Notes

Source: Data through the 100th Congress were taken from U.S. Library of Congress. Congressional Research Service. Indicators of Senate Activity and Workload. Report No. 87-497 S, by Roger H. Davidson and Carol Hardy. Washington, 1987. p. 35.

Data for subcommittees of standing committees for the 79th Congress were compiled from U.S. Congress, Joint Committee on the Organization of Congress. Hearings, 79th Cong., 1st Sess., March 13-June 29, 1945. Washington, U.S. G.P.O., 1945. p. 1040-1041. Data for standing committees for the 98th Congress were derived from U.S. Congress. Senate. United States Telephone Directory, May 1984. Senate Publication 98-21, 98th Cong., 2nd Sess. Washington, U.S. G.P.O., 1984. p. 77-120. For all other Congresses, sources include the *Congressional Record*; lists of committee assignments published by the Secretary of the Senate; Brownson, *Congressional Staff Directory*; Congressional Quarterly, *Congressional Quarterly Almanac* and *Congressional Quarterly Weekly Report*; West Publishing Co., *U.S. Code Congressional and Administrative News*; and Monitor Publishing Co., *Congressional Yellow Book*.

NA indicates that the information is not readily available.

**NUMBER OF COMMITTEE AND SUBCOMMITTEE ASSIGNMENTS,  
U.S. HOUSE OF REPRESENTATIVES, 102nd CONGRESS<sup>1</sup>**

NUMBER OF ASSIGNMENTS	REPRESENTATIVES AT THIS LEVEL
1	3
2	9
3	39
4	46
5	35
6	51
7	94
8	67
9	49
10	26
11	9
12	4
13	4
14	1
15	0
16	0
17	1

Source: U.S. Congress. Joint Committee on Printing. *1991-1992 Official Congressional Directory, 102d Congress*. 102d Cong., 1st Sess., Washington, U.S. G.P.O., 1991. p. 518-557. (S.Pub. 102-4.)

*Congressional Yellow Book*. Monitor Publishing Co., Washington, D.C., 1991 and 1992.

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<sup>1</sup> Figures include House standing, select, and joint committees and their subcommittees, as of the outset of the 102nd Congress. They do not reflect leadership positions, or assignments to caucuses, task forces, boards, or commissions. In addition, data is provided for 438 of the 440 Members; the Speaker and Minority Leader do not serve on standing, select, or joint committees.



**NUMBER OF COMMITTEE AND SUBCOMMITTEE ASSIGNMENTS,  
U.S. SENATE, 102nd CONGRESS<sup>1</sup>**

NUMBER OF ASSIGNMENTS	SENATORS AT THIS LEVEL
5	1
6	2
7	4
8	8
9	16
10	14
11	12
12	13
13	12
14	8
15	4
16	4
17	0
18	1
19	0
20	0
21	0
22	1

Source: U.S. Congress. Joint Committee on Printing. *1991-1992 Official Congressional Directory, 102d Congress*. 102d Cong., 1st Sess., Washington, U.S. G.P.O., 1991. p. 503-517. (S.Pub. 102-4.)

*Congressional Yellow Book*. Summer, 1992, ed. Monitor Publishing Co., Washington, D.C., 1992.

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<sup>1</sup> Figures include all Senate standing, select, special, and joint committees and their subcommittees, as of the outset of the 102nd Congress. They do not reflect leadership positions, or assignments to caucuses, task forces, boards, or commissions.

IMPACT OF WAIVERS ON SENATE FULL COMMITTEE SIZES, 103RD CONGRESS<sup>1</sup>

COMMITTEE	SIZES		
	Current	Impact of a "No Waiver" Policy	Stevenson Reform Plan (S.Res.4)
<b>"A" Committees</b>			
Agriculture	18	16	16
Appropriations	29	29	24
Armed Services	22	18	16
Banking	19	16	15
Commerce	20	19	18
Energy	20	16	17
Environment	17	17	15
Finance	20	20	17
Foreign Relations	20	18	15
Governmental Affairs	14	9	19
Judiciary	18	15	15
Labor	17	8	16
<b>"A" Subtotal</b>	<b>234</b>	<b>201</b>	<b>203</b>
<b>"B" Committees</b>			
Budget	21	17	16
Rules	16	14	9
Small Business	22	17	14
Veterans' Affairs	12	9	9
Intelligence	17	12	15
Aging	21	14	14
Jt. Economic	10	7	10
<b>"B" Subtotal</b>	<b>119</b>	<b>90</b>	<b>87</b>
<b>Subtotal "A" &amp; "B"</b>	<b>353</b>	<b>291</b>	<b>290</b>

COMMITTEE	SIZES		
	Current	Impact of a "No Waiver" Policy	Stevenson Reform Plan (S.Res. 4)
"C" Committees			
Indian Affairs	18	18	5
Ethics	6	6	6
Jt. Taxation	5	5	5
Jt. Library	5	5	5
Jt. Printing	5	5	3
Jt. Organization	12	12	n/a
"C" Subtotal	51	51	24
Total "A" "B" & "C"	404	342	314

Sources included 1) the *Congressional Yellow Book*. Monitor Publishing Co., Washington, D.C., Summer ed., 1993; 2) Senate resolutions affecting committee sizes and assignments, including S.Res. 6, S.Res. 8, and S.Res. 130-133; and 3) S.Res. 4 (95th Congress), as agreed to by the Senate.

<sup>1</sup> Column one lists current sizes of Senate committees. Column two lists the estimated sizes of committees, based a "no waiver" policy whereby Senators could not exceed the 2 "A," 1 "B" committee assignment rule. Sizes of "A" committees were determined by subtracting the total number of Senators with waivers for a particular committee from the current committee size. However, it was not possible to determine the precise committees for which "B" committee waivers were authorized. Consequently, calculations of expected size were based on equally weighted outcomes, whereby it was assumed that Senators would drop their excess "B" committee slots with equal probability. Column three lists sizes of Senate committees as contained in S.Res. 4, the committee system reform measure resulting from the work of the Temporary Select Committee to Study the Senate Committee System (Stevenson Committee).

**IMPACT OF WAIVERS ON THE NUMBER OF ASSIGNMENTS PER SENATOR,  
103RD CONGRESS<sup>1</sup>**

No. of Assignments	Current No. of Senators	No. of Senators Under "No Waiver" Policy
5	0	2
6	1	3
7	3	7
8	5	11
9	16	20
10	14	15
11	14	16
12	7	12
13	7	3
14	15	6
15	4	1
16	5	0
17	1	0
18	2	0
19	1	0
20	0	0
21	1	0
<b>Average Assignments</b>	<b>11.7</b>	<b>10.0</b>

Sources: *The Congressional Yellow Book*. Monitor Publishing Co., Washington, D.C., Summer ed., 1993. Also, Senate resolutions affecting committee sizes/assignments, including S.Res. 6, S.Res. 8, and S.Res. 130-133.

<sup>1</sup> Information is provided for only 96 Senators, because four Senators recently elected to full committees have not yet been assigned to subcommittees. Figures include all Senate standing, select, special, and joint committees and their subcommittees. They do not reflect leadership positions, or assignments to caucuses, task forces, boards, or commissions.

Figures in the third column are estimates under a "no waiver" policy, whereby Senators could not exceed the 2 "A," 1 "B" assignment rule. Each Senator with an "A" committee waiver was stricken from the "waived" committee and its corresponding subcommittees. However, because it was not possible to determine the precise committees for which Senators were authorized "B" waivers, these calculations were based on equally weighted outcomes, whereby Senators were assumed to drop excess "B" committees with equal probability.



**IMPACT OF WAIVERS ON HOUSE STANDING COMMITTEE SIZES,  
103RD CONGRESS<sup>1</sup>**

Committee	SIZES		% Change
	Current	Impact of a "No Waiver" Policy	
Agriculture	48	44	-8.3
Appropriations★	60	60	0.0★
Armed Services	56	52	-7.1
Banking	51	47	-7.8
Budget ★	43	43	0.0
District of Columbia	12	10	-16.7
Education & Labor	43	38	-11.6
Energy & Commerce ★	44	44	0.0
Foreign Affairs	45	39	-13.3
Government Ops.	43	31	-27.9
House Administration	19	16	15.8
Judiciary ★	35	35	0.0
Merchant Marine	46	39	-15.2
Natural Resources	43	33	-23.3
Post Office	24	14	-41.7
Public Works	63	62	-1.6
Rules ★	13	13	0.0
Science	55	44	-20.0
Small Business	45	41	-8.9
Standards ★	14	14	0.0
Veterans' Affairs	35	33	-5.7
Ways & Means ★	38	38	0.0
Aggregate Total	875	790	-9.7

Sources included the *Congressional Yellow Book*. Monitor Publishing Co., Washington, D.C., Summer ed., 1993, and information on assignment waivers provided by the party conferences.

<sup>1</sup> Column 2 lists current sizes of full committees, column 3 lists sizes of committees based on a "no waiver" policy, and column 4 lists the corresponding percentage change from current to "no waiver" sizes. Figures in column 3 were derived by subtracting the total number of Representatives with waivers for a particular committee (rather than general waivers permitted in caucus/conference rules) from the current committee size.

**IMPACT OF WAIVERS ON THE NUMBER OF ASSIGNMENTS PER  
REPRESENTATIVE, 103RD CONGRESS**

No. of Assignments	Current No. of Representatives	No. of Reps. Under "No Waiver" Policy
1	6	6
2	11	11
3	68	78
4	43	51
5	37	45
6	62	81
7	115	120
8	48	24
9	31	15
10	10	6
11	3	0
12	3	1
13	1	0
<b>Average Assignments</b>	<b>6.0</b>	<b>5.6</b>

Sources included the *Congressional Yellow Book*. Monitor Publishing Co., Washington, D.C., Summer ed., 1993, and information on assignment waivers provided by the party conferences.

<sup>1</sup> Data is provided for 438 of the 440 Members; the Speaker and Minority Leader do not serve on standing, select, or joint committees except in an ex-officio capacity. Figures include House standing, select, and joint committees and their subcommittees. They do not reflect leadership positions, or assignments to caucuses, task forces, boards, or commissions.

Figures in the third column are estimates under a "no waiver" policy, whereby Representatives would be stricken from committees, and their corresponding subcommittees, for which they have received specific waivers. "General waivers" permitted in caucus/conference rules, for example, allowing Members to serve on the Committee on Standards of Official Conduct without regard to other committee assignments, are not reflected.

Selected Indicators of House Committee Activity, By Committee,  
102nd Congress (1991-1992)

Standing Committees	Staff (1)	Measures Referred (2)	Measures Reported (3)	Referred & Passed House (4)	Referred & became P.L. (4)	Hearings/Meets. Scheduled (5)	Floor Amendments Offered (6)	Printed Docu- ments (7)	Printed Hearings (7)	Printed Prints (7)	Printed Legis- lative Repts. (7)
Agriculture	68	230	42	47	27	211	58	0	110	7	45
Appropriations	214	168	34	38	33	998	210	182	180	2	67
Armed Services	82	388	21	29	10	324	61	7	84	22	25
Banking, Finance, and Urban Affairs	102	456	19	33	14	297	58	2	179	20	29
Budget	104	1	1	1	0	94	3	0	73	9	5
District of Columbia	38	45	14	12	6	44	1	1	14	3	15
Education and Labor	115	647	36	58	28	290	75	7	143	26	44
Energy and Commerce	144	1102	69	69	32	397	98	1	214	22	85
Foreign Affairs	102	639	13	95	23	406	103	70	169	48	21
Government Operations	88	248	8	12	5	280	24	0	144	7	54
House Administration	68	326	15	41	12	78	10	11	15	3	15
Judiciary	73	1003	128	67	40	274	90	15	118	11	89
Merchant Marine and Fisheries	78	345	79	58	22	176	121	15	108	5	80
Natural Resources	82	558	131	144	60	345	85	1	161	17	137
Post Office and Civil Service	80	721	13	182	165	172	14	1	84	11	13
Public Works and Transportation	88	434	42	58	24	204	65	12	104	10	27
Rules	45	388	203	183	0	111	2	1	4	5	28
Science, Space, and Technology	91	177	26	26	11	297	61	0	179	29	29
Small Business	51	61	5	5	2	114	4	0	101	3	2

Standing Committees	Staff (1)	Measures Referred (2)	Measures Reported (3)	Referred & Passed House (4)	Referred & became P.L. (4)	Hearings/Meets Scheduled (5)	Floor Amendments Offered (6)	Printed Documents (7)	Printed Hearings (7)	Printed Prints (7)	Printed Legislative Pages (7)
Standards of Official Conduct	12	3	1	1	0	27	0	2	0	3	2
Veterans' Affairs	46	221	21	33	19	93	3	5	44	9	20
Ways and Means	138	1694	66	72	23	295	77	51	135	96	94
Select Committees											
Aging	36	0	0	0	0	103	0	0	89	34	1
Children, Youth and Families	19	0	0	0	0	24	0	0	22	8	5
Hunger	15	0	0	0	0	41	0	0	43	1	2
Intelligence	27	20	3	4	3	73	11	0	3	1	7
Narcotics, Abuse, and Control	15	0	0	0	0	27	0	0	25	6	2



## NOTES:

(1) Figures are derived from the Report of the Clerk of the House, for July 1, 1992, through September 30, 1992. They reflect the number of staff employed and salaried by committees on September 30, 1992.

(2) This figure includes both measures that originated in the House and were referred to House committees and measures that passed the Senate, were sent to the House, and were then referred to House committees. It also includes measures that were originated by the respective committee.

(3) This figure includes measures originated and reported by the respective committees as well as those referred to and reported by committees. However, it reflects only measures formally reported to the House by the committees. It is possible for a measure to be removed from committee consideration and brought to the House floor in ways other than by its being reported. For example, measures may be called up and simultaneously extracted from a committee by unanimous consent, bringing them before the House without a prior committee report. It is therefore possible for a measure to be referred to a committee and passed by the House, and perhaps enacted into law, without being reported.

(4) These figures reflect measures initially referred to the respective committees that were passed by the House, or enacted into law, as identified in a search of the Library of Congress SCORPIO computerized database. Because only bills and joint resolutions become public law, the law figures include only these two types of measures. However, the other three categories — measures referred, measures reported, and measures passed by the House — also may include simple and concurrent resolutions.

For data on measures reported, passed by the House, and enacted into law, the computer does not consistently capture measures that receive action under a bill number different from that assigned upon its introduction. For example, if a committee reports a measure that contains most or all of the provisions of two or more measures referred to it, the computer counts the report only once. Also, the House sometimes passes a House bill reported from a committee, then substitutes this text for that of a Senate-passed bill not referred to a House committee. If the House text is ultimately enacted in that form, neither the Senate nor the House numbered measure would be captured by the database as being a committee-referred measure enacted into law. Thus, the figures given here for measures reported, passed, or enacted may be less than estimated by the respective

committees themselves, or less than computed by other methods and services.

(5) These figures were obtained from a database maintained by Legislative, a subsidiary of the Washington Post Company. The information is derived from the Congressional Record, committee press releases, and telephone calls to committees. This indicator captures announcements of hearings, mark-up sessions, and business meetings of the full committee and its subcommittees. With this method, if two subcommittees, or a subcommittee and the full committee, scheduled meetings on the same day, they were counted as two meeting days. This figure does not reflect meetings that were not publicized or work required outside of formal meetings or in conference. Also, this figure does not correct for scheduled meetings that were subsequently cancelled.

(6) Figures in this column were derived from information in the Library of Congress's automated legislative information file for the 102nd Congress. After identifying the measures that received floor action in the House, we examined the detailed legislative steps and counted the number of amendments offered to all such measures. This indicator provides a rough measure of legislative complexity, with a larger number of amendments suggesting more complicated measures.

(7) Figures in this column were derived from CIS/Annual 1991: Abstract to Congress Publications and Legislative Histories, and the CIS/Annual 1992: Abstract to Congressional Publications and Legislative Histories. For each type of publication, the indicator captures the number printed during the 102nd Congress, regardless of when the pertinent committee activity occurred or the item was sent for printing. Thus, for example, publications pertaining to 101st Congress activities but not printed until the 102nd Congress would be reflected in these figures. Also, relevant committee activities which did not result in an official congressional publication would not be reflected.

Selected Indicators of Senate Committee Activity, By Committee,  
102nd Congress (1991-1992)

Standing Committees	Staff (1)	Measures Referred (2)	Measures Reported (3)	Referred & Passed Senate (4)	Referred & Passed P.L. (5)	Hearings Held (6)	Floor Amendments Offered (8)	Printed Documents (7)	Printed Hearings (7)	Printed Prints (7)	Printed Legislative Reports (7)	Printed Executive Reports (7)	Nominations Referred (8)	Nominations Reported (8)
Agriculture, Nutrition, & Forestry	37	128	8	19	11	62	18	0	62	1	6	0	16	9
Appropriations	78	152	35	34	31	399	610	4	92	1	33	0	0	0
Armed Services	51	151	40	31	5	195	171	0	43	4	17	1	700	644
Banking, Housing, and Urban Affairs	54	189	12	18	10	172	63	0	106	7	9	1	51	31
Budget	57	141	6	1	0	45	0	0	17	3	1	0	0	0
Commerce, Science, and Transportation	75	256	61	43	20	172	92	1	121	3	61	0	82	41
Energy and Natural Resources	49	373	120	104	56	180	30	0	130	9	114	0	13	11
Environment and Public Works	41	248	20	35	20	145	83	0	78	5	15	0	16	9
Finance	61	990	28	13	6	146	140	1	115	47	17	0	21	20
Foreign Relations	65	327	62	59	7	309	119	41	98	38	7	50	254	196
Governmental Affairs	112	231	36	33	23	209	6	0	114	16	27	0	35	19
Judiciary	122	732	150	191	123	206	31	0	126	20	33	2	264	176
Labor and Human Resources	126	359	45	35	23	190	113	0	95	6	40	0	197	114
Rules and Administration	25	123	31	37	4	38	52	7	1	3	13	0	2	0
Small Business	25	23	3	4	3	50	3	0	34	2	1	0	4	4
Veterans' Affairs	22	130	20	21	13	54	9	0	21	2	19	0	6	5
Select/Special Committees (9)														
Aging	30	1	1	0	0	19	0	0	35	24	4	0	0	0
Ethics	11	0	0	0	0	13	0	0	20	1	1	0	0	0
Indian Affairs	25	71	41	30	10	105	18	1	64	6	40	0	5	5
Intelligence	37	12	4	2	2	66	0	0	4	2	4	1	2	2

## NOTES:

- (1) Figures are derived from the *Report of the Secretary of the Senate*, for March 1, 1992, through September 30, 1992. They reflect the number of staff employed and salaried by committees on September 30, 1992.
  - (2) This figure includes both measures that originated in the Senate and were referred to Senate committees and measures that passed the House, were sent to the Senate, and were then referred to Senate committees. It also includes measures that were originated by the respective committee.
  - (3) This figure includes measures originated and reported by the respective committees as well as those referred to and reported by committees. However, it reflects only measures *formally reported* to the Senate by the committees. It is possible for a measure to be removed from committee consideration and brought to the Senate floor in ways other than by its being reported. For example, measures may be called up and simultaneously extracted from a committee by unanimous consent, bringing them before the Senate without a prior committee report. It is therefore possible for a measure to be referred to a committee and passed by the Senate, and perhaps enacted into law, without being reported.
  - (4) These figures reflect measures initially referred to the respective committees that were passed by the Senate, or enacted into law, as identified in a search of the Library of Congress' SCORPIO computerized database. Because only bills and joint resolutions become public law, the law figures include only these two types of measures. However, the other three categories -- measures referred, measures reported, and measures passed by the Senate -- also may include simple and concurrent resolutions.
- For data on measures reported, passed by the Senate, and enacted into law, the computer does not consistently capture measures that receive action under a bill number different from that assigned upon its introduction. For example, if a committee reports a measure that contains most or all of the provisions of two or more measures referred to it, the computer counts the report only once. Also, the Senate sometimes passes a Senate bill reported from a committee, then substitutes this text for that of a House-passed bill not referred to a Senate committee. If the House text is ultimately enacted in that form, neither the Senate nor the House numbered measure would be captured by the database as being a committee-referred measure enacted into law. Thus, the figures given here for measures reported, passed, or enacted may be less than estimated by the respective committees themselves, or less than computed by other methods and sources.
- (5) These figures were obtained from a database maintained by *Legislate*, a subsidiary of the Washington Post Company. The information is derived from the *Congressional Record*, committee press releases, and telephone calls to the committees. This indicator captures *announcements* of hearings, mark-up sessions, and business meetings for the full committee and its subcommittees. With this method, if two subcommittees, or a subcommittee and the full committee, scheduled meetings on the same day, they were counted as two meeting days. This figure does not reflect meetings that were not publicized or work required outside of formal meetings or in conference. Also, this figure does not correct for scheduled meetings that were subsequently canceled.
  - (6) Figures in this column were derived from information in the Library of Congress' automated legislative information file for the 102nd Congress. After identifying the measures referred to each committee that were passed by the Senate, we examined the detailed legislative steps and counted the number of amendments offered to all such measures. This indicator provides a rough measure of legislative complexity, with a larger number of amendments suggesting more complicated measures.
  - (7) Figures in this column were derived from the *CIS/Annual 1991: Abstract to Congressional Publications and Legislative Histories*, and the *CIS/Annual 1992: Abstract to Congressional Publications and Legislative Histories*. For each type of publication, the indicator captures the number printed during the 102nd Congress, regardless of when the pertinent committee activity occurred or the item was sent for printing. Thus, for example, publications pertaining to 101st Congress activities but not printed until the 102nd Congress, would be reflected in these figures. Also, relevant committee activities which did not result in an official congressional publication would not be reflected.
  - (8) Figures in this column were derived from the 102nd Congress Nomination File of Senate LEGIS. Data reflect the number of separate transmittals of nominations to the Senate, whether an individual or list of names. Therefore, the numbers do not represent separate nominees. In addition, the numbers reflect referrals, and in the case of multiple referrals, each committee involved is reflected in the totals.
  - (9) Excludes the Select Committee on POW/MIA Affairs, which existed in the 102nd Congress but was not recreated for the 103rd Congress.

## SENATE

DAVID L. BORER, OKLAHOMA, CHAIRMAN  
 PETE V. DOMENICI, NEW MEXICO, VICE CHAIRMAN  
 JIM SASSER, TENNESSEE  
 WENDELL H. FORD, KENTUCKY  
 HARRY REID, NEVADA  
 PAUL S. SARABANES, MARYLAND  
 DAVID PRYOR, ARKANSAS  
 NANCY L. KASSIDIAN, KANSAS  
 TRENT LOTT, MISSISSIPPI  
 TED STEVENS, ALASKA  
 WILLIAM S. COHEN, MAINE  
 RICHARD G. LUGAR, INDIANA  
 GEORGE J. MITCHELL, MAINE, EX OFFICIO  
 ROBERT DOLE, KANSAS, EX OFFICIO

G. KIM WINCUP, STAFF DIRECTOR

## HOUSE OF REPRESENTATIVES

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 DAVID ORRILL, CALIFORNIA, VICE CHAIRMAN  
 DAVID OREY, WISCONSIN  
 AL SWIFT, WASHINGTON  
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## Congress of the United States

JOINT COMMITTEE ON  
 THE ORGANIZATION OF CONGRESS  
 ROOM 175D FORD HOUSE OFFICE BUILDING  
 Washington, DC 20515-6775

March 23, 1993

TO : Members of the Joint Committee on the Organization of Congress

SUBJECT : Multiple Referrals and Committee Jurisdictional Overlaps

This memorandum and attached tables provide information on the multiple referral of legislation in the House and Senate and on major jurisdictional overlaps among committees in each chamber.

In the Senate, multiple referrals have long been permitted but they have been seldom used. Senate Rule XVII paragraph 3(a) provides for multiple referrals by joint motion of the majority and minority leaders (or their designees), although in practice multiple referrals tend to be accomplished by unanimous consent. Far more common is the reference of a measure to one committee only, based on the "subject matter which predominates in such proposed legislation."<sup>1</sup> Consequently, multiple referrals account for a small percentage of all referrals in the Senate (2%-4% over the last three Congresses), and of each committee's workload. Information on multiple referrals during the 102d Congress, by pairs of Senate committees, is presented in Table 1. Data in this table were derived from the legislative file for the 102nd Congress of the Library of Congress's SCORPIO computerized database.

Despite the relative infrequency of multiple referrals in the Senate, a significant number of policy areas are split among committees. Table 2 provides information on Senate committee jurisdictional overlaps, by subject. The information is based on patterns of bill referrals; standing orders between committees; and responses to questionnaires from the Committee on Rules and Administration to committee chairs and ranking minority members, during its 100th Congress study of Senate operations. Additionally, most of the information in Table 2 appears in the report of the Committee on Rules and Administration on its study of the Senate.<sup>2</sup>

Multiple referrals in the House were first permitted by the Committee Reform Amendments of 1974 (H.Res. 988, 93rd Congress), which took effect at the outset of the 94th Congress (January 3, 1975). The current authority for multiple referrals is contained in House Rule X, Clause 5(a), which in part states that referrals to committees will be made in a manner that ensures that "each committee which has jurisdiction under clause 1 over the subject matter

<sup>1</sup> U.S. Congress. Senate. Standing Rules of the Senate to July 2, 1992. Senate Document No. 102-25, 102d Cong., 2d Sess. Washington, U.S. G.P.O., 1992. Senate Rule XVII, para. 1, p. 12.

<sup>2</sup> The information, prepared by CRS, is contained in: U.S. Congress. Senate. Committee on Rules and Administration. Report on Senate Operations, 1988. Appendix. Committee Print, 100th Cong., 2d Sess. Washington, U.S. G.P.O., 1988. p. 4-18.



of any provision thereof will have responsibility for considering such provision and reporting to the House with respect thereto."

Multiple referrals currently constitute a sizeable portion of the workload of nearly every House committee, because today's omnibus measures often address many subjects and because House committee jurisdictions often overlap. Table 3 provides information on the number and percent of measures multiply-referred to each House committee (with legislative jurisdiction) during the 100th, 101st, and 102d Congresses. Figures in a "Multiple Referral" column reflect measures referred to the indicated committee and to one or more other committees. Data in this table were derived from the legislative files of the Library of Congress's SCORPIO computerized database.

Information on the policy areas that overlap among House committee jurisdictions, accounting for many of the multiple referrals, is provided in Table 4. This compilation is based on a list of major jurisdictional overlaps by *House committee*, prepared by the Office of the House Parliamentarian. The Parliamentarian's list was reformatted to group jurisdictional overlaps under broad subject headings.

It should be noted that Table 2 (Senate committee jurisdictional overlaps) and Table 4 (House committee jurisdictional overlaps) are not directly comparable. For Senate committees (Table 2), precise jurisdictional language as contained in Senate Rule XXV is often used, whereas for House committees (Table 4), policy issues and acts as they are commonly-referred to are identified. Relatedly, the Senate table appears to be a more exhaustive identification of fragmented policy areas based on Rule XXV language, whereas the House table focuses on the major overlaps that occur, as identified by the House Parliamentarian. These differences should not be problematic in studying jurisdictional overlaps within a chamber.

TABLE 1 MULTIPLE REFERRAL OF MEASURES BY SENATE COMMITTEE PAIRINGS, 102ND CONGRESS (1991-1992)<sup>1</sup>

SENATE COMMITTEES <sup>2</sup>	Aging	Agri.	Apr.	Armd.	Bank.	Budg.	Com.	Ener.	Env.	Fin.	F.R.	G.A.	Ind.	Intel.	Judi.	Labr.	POWs	Rules	S.B.	Vets
Aging	Aging	--																		
Agriculture, Nutrition, & Forestry	Agri.	--																		
Appropriations	Apr.		--																	
Armed Services	Armd.			--																
Banking, Housing, & Urban Affairs	Bank.				--															
Budget <sup>3</sup>	Budg.		100			--														
Commerce, Science, & Transportation	Com.						--													
Energy & Natural Resources	Ener.							--												
Environment & Public Works	Env.						1		--											
Finance	Fin.									--										
Foreign Relations	F.R.										--									
Governmental Affairs <sup>4</sup>	G.A.					30	1	1				--								
Indian Affairs	Ind.							1	1				--							
Intelligence	Intel.			3										--						
Judiciary	Judi.				1		2				1				--					
Labor & Human Resources	Labr.						2									--				
POW/MIA Affairs	POWs																--			
Rules & Administration <sup>5</sup>	Rules	1	1	1	1	1	1	1	1	1	2	1	1	1	1	2	1	--	1	
Small Business	S.B.																	1	--	
Veterans' Affairs	Vets.			1					1	1								1		--

Source: Library of Congress SCORPIO computerized database "C102" file.

<sup>1</sup> Measures reflected were multiply referred to two committees only. In addition, a measure to rescind unobligated appropriations for fiscal year 1992 (S. 2265) was referred to 10 committees: Agriculture, Nutrition, and Forestry; Appropriations; Armed Services; Budget; Commerce, Science, and Transportation; Energy and Natural Resources; Environment and Public Works; Governmental Affairs; Judiciary; and Veterans' Affairs.

<sup>2</sup> The Select Committee on Ethics, not listed, did not receive any multiple referrals, and the Select Committee on POW/MIA Affairs was created during this Congress.

<sup>3</sup> The large number of measures multiply referred to the Budget and Appropriations Committees predominantly reflects measures pertaining to the approval of rescission proposals submitted by the President.

<sup>4</sup> The large number of measures multiply referred to the Governmental Affairs and Budget Committees predominantly reflects budget process measures.

<sup>5</sup> Multiple referrals to the Rules and Administration Committee and to other committees predominantly reflect measures authorizing funds for Senate committees.

**TABLE 2. SENATE COMMITTEE JURISDICTIONAL OVERLAPS,  
BY SUBJECT**

### **Banks**

1. Agriculture, Nutrition, and Forestry: regulation of farm credit banks.
2. Banking, Housing, and Urban Affairs: regulation of banks.

### **Budget Process**

1. Budget: budget process legislation generally.
2. Governmental Affairs: budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974.

### **Deepwater Ports**

1. Commerce, Science, and Transportation: marine and ocean navigation, including navigational aspects of deepwater ports.
2. Energy and Natural Resources: energy related aspects of deepwater ports.
3. Environment and Public Works: flood control and improvements of rivers and harbors, including environmental aspects of deepwater ports.

### **District of Columbia**

1. Environment and Public Works: public buildings and improved grounds of the United States generally, including Federal buildings in the District of Columbia.
2. Governmental Affairs: municipal affairs of the District of Columbia, except appropriations.
3. Labor and Human Resources: Gallaudet College, Howard University, and Saint Elizabeth's Hospital.
4. Rules and Administration: U.S. Capitol and congressional office buildings, the Library of Congress, the Smithsonian Institution (and the incorporation of similar institutions), and the Botanic Gardens.

### **Education**

1. Agriculture, Nutrition, and Forestry: school nutrition.
2. Armed Services: education of military and civilian dependents overseas.
3. Energy and Natural Resources: mining education.
4. Foreign Relations: international education programs.
5. Labor and Human Resources: education generally; agricultural colleges.
6. Rules and Administration: Capitol Page School.
7. Veterans' Affairs: education of veterans.
8. Select Indian Affairs: Indian education.

**Fisheries/Aquaculture**

1. Agriculture, Nutrition, and Forestry: food from fresh waters.
2. Commerce, Science, and Transportation: marine fisheries.
3. Environment and Natural Resources: fisheries and wildlife.

**Health**

1. Agriculture, Nutrition, and Forestry: pesticides.
2. Armed Services: military and dependent health care.
3. Banking, Housing, and Urban Affairs: nursing home construction.
4. Commerce, Science, and Transportation: toxic substances, except pesticides; warning labels.
5. Environment and Public Works: environmental effects of toxic substances, except pesticides.
6. Finance: health programs under Social Security or a specific tax or trust fund; national social security.
7. Governmental Affairs: health care and health insurance for federal employees.
8. Labor and Human Resources: public health generally.
9. Veterans' Affairs: veterans hospitals and medical care.
10. Select Indian Affairs: Indian health care.
11. Special Aging: problems and opportunities of maintaining health.

**Indian Housing**

1. Banking, Housing, and Urban Affairs: public and private housing (including veterans' housing).
2. Select Indian Affairs: all matters pertaining to problems and opportunities of Indians.

**Insular Possessions**

1. Energy and Natural Resources: territorial possessions of the United States, including trusteeships.
2. Finance: revenue measures relating to the insular possessions.
3. Foreign Relations: national security and international aspects of trusteeships of the United States.
4. Governmental Affairs: intergovernmental relations.
5. Judiciary: local courts in the territories and possessions.



**Intelligence**

1. Armed Services: national intelligence activities of the Department of Defense.
2. Foreign Relations: State Department Bureau of Intelligence and Research.
3. Judiciary: Federal Bureau of Investigation counterintelligence.
4. Select Intelligence: intelligence activities, generally.

**International Affairs**

1. Banking, Housing, and Urban Affairs: international economics.
2. Commerce, Science, and Transportation: international science, technology, communications, oceans.
3. Energy and Natural Resources: international ocean mining.
4. Foreign Relations: relations of the United States with foreign nations generally.
5. Environment and Public Works: international environment.
6. Judiciary: refugees and diplomatic relations.

**National Forests, Wildlife, and Wilderness**

1. Agriculture, Nutrition, and Forestry: forestry, and forest reserves and wilderness areas other than those created from the public domain.
2. Energy and Natural Resources: national parks, recreation areas, wilderness areas, wild and scenic rivers, historical sites, military parks and battlefields, and on the public domain, preservation of prehistoric ruins and objects of interest.
3. Environment and Natural Resources: fisheries and wildlife.
4. Select Indian Affairs: Indian land management.

**National Science Foundation and National Academy of Sciences**

1. Commerce, Science, and Transportation: science, engineering, and technology research and development and policy.
2. Labor and Human Resources: education generally.

**Naval Petroleum Reserves**

1. Armed Services: naval petroleum reserves, except in Alaska.
2. Energy and Natural Resources: naval petroleum reserves in Alaska.

### Nuclear Energy

1. Armed Services: national security aspects of nuclear energy.
2. Energy and Natural Resources: nonmilitary development of nuclear energy.
3. Environment and Public Works: nonmilitary environmental regulation and control of nuclear energy.
4. Foreign Relations: international aspects of nuclear energy, including nuclear transfer policy.
5. Governmental Affairs: organization and management of United States nuclear export policy.

### Oceans

1. Commerce, Science, and Transportation: oceans, weather, and atmospheric activities.
2. Energy and Natural Resources: international ocean mining.
3. Environment and Public Works: ocean dumping.
4. Foreign Relations: oceans and international environmental and scientific affairs as they relate to foreign policy.

### Outer Continental Shelf

1. Commerce, Science, and Transportation: transportation and commerce aspects of Outer Continental Shelf lands.
2. Energy and Natural Resources: extraction of minerals from Outer Continental Shelf lands.
3. Environment and Public Works: environmental aspects of Outer Continental Shelf lands.

### Rescissions of Budget Authority

1. Appropriations: rescission of appropriations contained in appropriation Acts.
2. Budget: rescission authority based on a January 30, 1975, standing order of the Senate.

### Toxic Substances

1. Agriculture, Nutrition, and Forestry: pests and pesticides.
2. Commerce, Science, and Transportation: regulation of consumer products and services, including testing related to toxic substances other than pesticides.
3. Environment and Public Works: environmental effects of toxic substances, other than pesticides.
4. Labor and Human Resources: public health.

### Trade

1. Agriculture, Nutrition, and Forestry: P.L. 480 food programs; agricultural trade.
2. Banking, Housing, and Urban Affairs: export and foreign trade promotion; export controls; financial aid to commerce and industry.
3. Commerce, Science, and Transportation: interstate commerce; merchant marine.
4. Finance: reciprocal trade agreements; tariff and import quotas.

5. Foreign Relations: International Monetary Fund; World Bank.
6. Judiciary: protection of trade and commerce against unlawful restraints and monopolies.

#### Transportation

1. Armed Services: maintenance and operation of the Panama Canal.
2. Banking, Housing, and Urban Affairs: urban mass transit.
3. Commerce, Science, and Transportation: transportation; highway safety.
4. Environment and Public Works: construction and maintenance of highways.
5. Finance: transportation of dutiable goods.
6. Judiciary: antitrust aspects of transportation systems.

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SOURCE: The information is based on patterns of bill referrals; standing orders between committees; and responses to questionnaires from the Committee on Rules and Administration to committee chairs and ranking minority members, during its 100th Congress study of Senate operations.

Most of the information that appears here is contained in: U.S. Congress. Senate. Committee on Rules and Administration. Report on Senate Operations, 1988. Appendix. Committee Print, 100th Cong., 2d sess. Washington, U.S. G.P.O., 1988. p. 4-18.

TABLE 3. Single and Multiple Referral of Measures to House Committees<sup>1</sup>

Committees	102nd Congress (1991-1992)		101st Congress (1989-1990)		100th Congress (1987-1988)	
	Single Referral	Multiple Referral No. %	Single Referral	Multiple Referral No. %	Single Referral	Multiple Referral No. %
Agriculture	138	152 (52%)	194	131 (40%)	241	122 (34%)
Appropriations	136	15 (10%)	62	30 (33%)	97	34 (26%)
Armed Services	204	184 (47%)	183	151 (45%)	157	141 (47%)
Banking, Finance & Urban Affairs	272	182 (40%)	245	149 (38%)	227	152 (40%)
Budget	0	0 (0%)	3	0 (0%)	5	0 (0%)
District of Columbia	34	11 (24%)	26	12 (32%)	20	12 (38%)
Education & Labor	390	251 (39%)	362	181 (33%)	289	170 (37%)
Energy & Commerce	558	536 (49%)	571	509 (47%)	482	499 (51%)
Foreign Affairs	413	224 (35%)	356	215 (38%)	396	247 (38%)
Government Operations	96	152 (61%)	94	131 (58%)	88	120 (58%)
House Administration	201	123 (38%)	215	118 (35%)	170	58 (25%)
Intelligence	3	17 (85%)	1	16 (94%)	4	33 (89%)
Interior & Insular Affairs	381	183 (32%)	376	191 (34%)	358	207 (37%)
Judiciary	736	263 (26%)	846	224 (21%)	858	224 (21%)
Merchant Marine & Fisheries	184	161 (47%)	206	165 (44%)	183	129 (41%)
Post Office & Civil Service	582	139 (19%)	790	173 (18%)	812	118 (13%)
Public Works & Transportation	256	175 (41%)	225	186 (45%)	258	143 (36%)
Rules	78	122 (61%)	72	124 (63%)	85	98 (54%)
Science, Space, & Technology	59	117 (66%)	72	108 (60%)	66	91 (58%)
Small Business	33	28 (46%)	22	21 (49%)	32	21 (40%)
Standards of Official Conduct	2	0 (0%)	0	2 (100%)	1	2 (67%)
Veterans' Affairs	160	60 (27%)	160	34 (18%)	164	30 (15%)
Ways & Means	1406	582 (29%)	1242	512 (29%)	1034	439 (30%)

<sup>1</sup> For each Congress, figures in the "Singly Referral" column reflect those referred only to the indicated committee, and figures in the "Multiply Referral" column reflect those referred to the indicated committee and to one or more other committees. The percentage of measures multiply referred to each committee is also provided. For each Congress, the sum of figures in both columns equals the total number of measures referred to the indicated committee, as provided in the appropriate "Measures Referred" column in Table 1.

Source: Library of Congress SCORPIO computerized database, C102, C101, and C100 files.



**TABLE 4. MAJOR HOUSE COMMITTEE JURISDICTIONAL OVERLAPS,  
BY SUBJECT**

**Agriculture**

1. Agriculture: Food distribution overseas, including Commodity Credit Corporation food distribution abroad; soil erosion.
2. Foreign Affairs: Food distribution overseas, including Commodity Credit Corporation food distribution abroad.
3. Public Works and Transportation: Soil erosion.

**Banking and Financial Market Regulation**

1. Banking, Finance, and Urban Affairs: Bank powers in new fields, e.g. securities and insurance; insurance industry regulation generally; disaster insurance; earthquake insurance.
2. Energy and Commerce: Bank powers in new fields, e.g. securities and insurance; insurance industry regulation generally; insurance regulation (McCarran Ferguson).
3. Judiciary: Insurance regulation (McCarran Ferguson).
4. Public Works and Transportation: Disaster insurance.
5. Science, Space, and Technology: Earthquake insurance.

**Economic Development**

1. Banking, Finance, and Urban Affairs: Regional commissions.
2. Public Works and Transportation: Regional commissions.

**Economic Regulation (issues not specified elsewhere)**

1. Agriculture: Food, Drug, and Cosmetic Act; commodities exchanges and futures regulation.
2. Banking, Finance, and Urban Affairs: Commodities exchanges and futures regulation.
3. Education and Labor: Employee Retirement Income Security Act (ERISA).
4. Energy and Commerce: Food, Drug, and Cosmetic Act; copyright issues in cable; digital audio; drug patents; telecommunications regulation; antitrust; commodities exchanges and futures regulation.
5. Judiciary: Copyright issues in cable; digital audio; drug patents; telecommunications regulation; antitrust; certain interstate compacts; antitrust protection for research and development businesses.
6. Public Works and Transportation: Certain interstate compacts.
7. Science, Space, and Technology: Antitrust protection for research and development businesses.
8. Ways and Means: Employee Retirement Income Security Act (ERISA).

## Education

1. Agriculture: Land grant colleges.
2. Armed Services: Educational programs and benefits (for the military).
3. Education and Labor: Land grant colleges; science education and scholarships, technical training, etc..
4. Science, Space, and Technology: Science education and scholarships, technical training, etc..
5. Veterans' Affairs: Educational programs and benefits (for the military).

## Energy

1. Armed Services: Energy policy; Department of Energy authorizations.
2. Energy and Commerce: Energy policy; Department of Energy authorizations.
3. Merchant Marine and Fisheries: Oil exploration.
4. Natural Resources: Energy policy; Department of Energy authorizations; oil exploration.
5. Science, Space, and Technology: Energy policy; Department of Energy authorizations.

## Environment

1. Agriculture: FIFRA (Federal Insecticide, Fungicide, and Rodenticide Act); EPA (Environmental Protection Agency).
2. Armed Services: Superfund cleanup of military bases.
3. Energy and Commerce: Superfund generally, including superfund cleanup of military bases; FIFRA (Federal Insecticide, Fungicide, and Rodenticide Act); indoor clean air; EPA (Environmental Protection Agency).
4. Foreign Affairs: Global environmental issues; Antarctica.
5. Government Operations: Indoor clean air.
6. Merchant Marine and Fisheries: Global environmental issues; clean water; ocean dumping; oil spills; EPA (Environmental Protection Agency); Antarctica.
7. Public Works and Transportation: Superfund generally; clean water; ocean dumping; oil spills; EPA (Environmental Protection Agency).
8. Science, Space, and Technology: Global environmental issues; EPA (Environmental Protection Agency); Antarctica.

## Fiscal Policy

1. Banking, Finance, and Urban Affairs: Revenue (fees and assessments); public debt management; issuance of notes; government securities initial issuance.
2. Merchant Marine and Fisheries: Revenue (fees and assessments).
3. Natural Resources: Revenue (fees and assessments).
4. Public Works and Transportation: Revenue (fees and assessments).
5. Ways and Means: Revenue (fees and assessments); public debt management; issuance of notes; government securities initial issuance.
6. Other committees: Revenue (fees and assessments), depending on the type of fee or assessment.

### **Food Safety and Nutrition**

1. Agriculture: Food nutrition and feeding programs; food purity; poultry inspections; fish and food inspection.
2. Education and Labor: Food nutrition and feeding programs.
3. Energy and Commerce: Food purity; poultry inspections; fish and food inspection.
4. Merchant Marine and Fisheries: Fish and food inspection.

### **Government-Individual Issues**

1. Government Operations: Administrative procedure; "takings."
2. Judiciary: Administrative procedure; "takings."

### **Governmental Affairs**

1. Foreign Affairs: Status of Micronesia and Trust Territories.
2. Government Operations: New commissions; subdepartmental executive branch reorganizations; public buildings regulation.
3. Judiciary: Judicial branch salaries.
4. Natural Resources: Status of Micronesia and Trust Territories; Kennedy Center.
5. Post Office and Civil Service: Judicial branch salaries; new departmental positions.
6. Public Works and Transportation: public buildings regulation; Kennedy Center.
7. Other committees: New commissions, depending on the issue; subdepartmental executive branch reorganizations, depending on the agency; new departmental positions, depending on the department.

### **Health**

1. Energy and Commerce: Health (especially medicare, part B).
2. Ways and Means: Health (especially medicare, part B).

### **Indians**

1. Education and Labor: Indian issues generally.
2. Energy and Commerce: Indian issues generally.
3. Natural Resources: Indian issues generally.

### **International Trade and Finance**

1. Armed Services: Export licenses.
2. Banking, Finance, and Urban Affairs: Foreign investment in the United States.
3. Energy and Commerce: Foreign investment in the United States; domestic content.
4. Foreign Affairs: Export licenses; foreign investment in the United States.
5. Ways and Means: Domestic content.

**Labor**

1. Education and Labor: Labor disputes involving railway or airline labor laws; prison labor; labor issues involving House employees.
2. Energy and Commerce: Labor disputes involving railway labor laws.
3. House Administration: Labor issues involving House employees.
4. Judiciary: Prison labor.
5. Post Office and Civil Service: Labor issues involving House employees.
6. Public Works and Transportation: Labor disputes involving airline labor laws.

**Legislative Branch Issues**

1. Energy and Commerce: Broad campaign reform.
2. Government Operations: Budget process.
3. House Administration: Broad campaign reform; employment practices in the House (House Rule LI); legislative branch salaries.
4. Post Office and Civil Service: Broad campaign reform; legislative branch salaries.
5. Rules: Budget process; employment practices in the House (House Rule LI); expedited procedures measures.
6. Other committees: Expedited procedures measures, depending on the substance of the measure.

**National Security**

1. Armed Services: Naval petroleum reserves; NATO (and status of forces); defense production; weapons inspections; arms control; defense contracting (procedures and standards); defense economic conversion.
2. Banking, Finance, and Urban Affairs: Defense production; defense economic conversion.
3. Education and Labor: Defense economic conversion.
4. Energy and Commerce: Naval petroleum reserves.
5. Foreign Affairs: NATO (and status of forces); weapons inspections; arms control.
6. Government Operations: Defense contracting (procedures and standards).

**Natural Resources**

1. Agriculture: Forests and multiple use areas; stream erosion; fish farming.
2. Energy and Commerce: Fish farming.
3. Foreign Affairs: Fishing and whaling agreements; deep seabed mining.
4. Merchant Marine and Fisheries: Fish farming; fishing and whaling agreements; outer continental shelf; endangered species; Alaska; wetlands; coastal zone management; wildlife refuges on the public domain; deep seabed mining.
5. Natural Resources: Forests and multiple use areas; outer continental shelf; endangered species; Alaska; wildlife refuges on the public domain; deep seabed mining.
6. Public Works and Transportation: Stream erosion; wetlands; coastal zone management.



### Nuclear Issues

1. Armed Services: Nuclear issues with military applications.
2. Energy and Commerce: Nuclear issues with military applications; regulation of commercial nuclear industry; nuclear waste disposal.
3. Natural Resources: Nuclear issues with military applications; regulation of commercial nuclear industry; nuclear waste disposal.
4. Science, Space, and Technology: Nuclear issues with military applications.

### Science and Technology

1. Energy and Commerce: Research and development "commercialization;" standardization.
2. Science, Space, and Technology: Research and development "commercialization;" standardization.

### Small Business Assistance

1. Armed Services: Contracting setasides.
2. Government Operations: Contracting setasides.
3. Small Business: Contracting setasides.
4. Other committees: Contracting setasides, depending on the agency specified.

### Transportation

1. District of Columbia: Regional transportation (Metro).
2. Energy and Commerce: Railroads; magnetic levitation; automobile and other commercial vehicle safety standards.
3. Merchant Marine and Fisheries: Intermodal transportation.
4. Public Works and Transportation: Regional transportation (Metro); railroads; magnetic levitation; automobile and other commercial vehicle safety standards; intermodal transportation.

### Welfare and Workfare

1. Education and Labor: Workfare (work incentive) requirements; welfare.
2. Ways and Means: Workfare (work incentive) requirements; welfare.

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 SOURCE: This compilation is based on a list of jurisdictional overlaps by *House committee* prepared by the Office of the House Parliamentarian, the authoritative source in this area. The Parliamentarian's list was reformatted by staff of the Joint Committee on the Organization of Congress, to group jurisdictional overlaps under broad *subject headings*.

## I. REVIEW OF EXISTING DOCUMENTATION AND REFERRAL PATTERNS

A list of Senate standing committees and a list of House standing committees, with jurisdiction over each of the 14 Executive Departments, were compiled and appear at the end of the text of this section. The information in the lists is summarized from two CRS reports, one for the Senate and one for the House.<sup>1</sup> Information for the House report was derived from several sources, including a study of House Rule X jurisdictional language and related bill referral patterns; a compilation by the Congressional Budget Office correlating agencies and committees by budget functions; and the *Table of Federal Programs*, prepared by the Senate Committee on Governmental Affairs. Information for the Senate report, by contrast, appears to be derived solely from referral patterns of Presidential nominations. These nominations are referred to Senate committees in accordance with Senate Rule XXV jurisdictional language. Ordinarily a nomination is referred to the committee with predominant jurisdiction over the subject matter associated with the position.

A few caveats concerning the lists deserve mention. First, each committee identified as having jurisdiction over a particular department does not necessarily have jurisdiction over its functions and operations. Second, while an attempt was made to identify all standing committees with jurisdiction over a particular department, it is possible that research using different methods and sources would reveal that certain department functions or operations fall within the purview of additional committees.

Third, with regard to the Senate list, the Committee on Governmental Affairs is included for all departments; similarly, with regard to the House list, the Committee on Government Operations is included for all departments. This is due to the special responsibility of both committees to oversee the economy, efficiency, and effectiveness of all government departments and agencies. However, the Senate and House Appropriations and Budget Committees are not included, although their funding and budgeting responsibilities affect every department.

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<sup>1</sup> Information for the Senate list is derived from: U.S. Library of Congress. Congressional Research Service. *Presidential Appointee Positions and Senate Committees Handling Nominations*. Report No. 92-880 GOV, by Rogelio Garcia. Washington, 1992.

Information for the House list is derived from: U.S. Library of Congress. Congressional Research Service. *House of Representatives Standing Committee Jurisdiction over Executive Agencies*. Unnumbered Report, by Judy Schneider. Washington, 1981.

**HOUSE OF REPRESENTATIVES STANDING COMMITTEE JURISDICTION  
OVER EXECUTIVE BRANCH DEPARTMENTS**

**1. Agriculture Department**

Agriculture  
Government Operations

**2. Commerce Department**

Banking, Finance, and Urban Affairs  
Energy and Commerce  
Government Operations  
Merchant Marine and Fisheries  
Public Works and Transportation

**3. Defense Department**

Armed Services  
Government Operations  
Public Works and Transportation

**4. Education Department**

Education and Labor  
Government Operations

**5. Energy Department**

Banking, Finance, and Urban Affairs  
Energy and Commerce  
Foreign Affairs  
Government Operations  
Natural Resources  
Public Works and Transportation  
Science, Space, and Technology  
Ways and Means

**6. Health and Human Services Department**

Education and Labor  
Energy and Commerce  
Government Operations  
Judiciary  
Natural Resources  
Ways and Means

**7. Housing and Urban Affairs Department**

Banking, Finance, and Urban Affairs  
Government Operations  
Natural Resources  
Public Works and Transportation  
Small Business

**8. Interior Department**

Government Operations  
Merchant Marine and Fisheries  
Natural Resources  
Public Works and Transportation

**9. Justice Department**

Government Operations  
Judiciary

**10. Labor Department**

Education and Labor  
Government Operations

**11. State Department**

Foreign Affairs  
Government Operations



**12. Transportation Department**

Energy and Commerce  
Government Operations  
Merchant Marine and Fisheries  
Public Works and Transportation  
Science, Space, and Technology

**13. Treasury Department**

Banking, Finance, and Urban Affairs  
Government Operations  
Ways and Means

**14. Veterans' Affairs Department**

Government Operations  
Veterans' Affairs

**SENATE STANDING COMMITTEE JURISDICTION  
OVER EXECUTIVE BRANCH DEPARTMENTS**

**1. Agriculture Department**

Agriculture, Nutrition, and Forestry  
Governmental Affairs

**2. Commerce Department**

Banking, Housing, and Urban Affairs  
Commerce, Science, and Transportation  
Environment and Public Works  
Finance  
Governmental Affairs  
Judiciary

**3. Defense Department**

Armed Services  
Governmental Affairs

**4. Education Department**

Labor and Human Resources  
Governmental Affairs

**5. Energy Department**

Armed Services  
Energy and Natural Resources  
Governmental Affairs

**6. Health and Human Services Department**

Finance  
Governmental Affairs  
Labor and Human Resources

**7. Housing and Urban Affairs Department**

Banking, Housing, and Urban Affairs  
Governmental Affairs

**8. Interior Department**

Energy and Natural Resources  
Environment and Public Works  
Governmental Affairs

**9. Justice Department**

Governmental Affairs  
Judiciary

**10. Labor Department**

Governmental Affairs  
Labor and Human Resources  
Veterans' Affairs

**11. State Department**

Foreign Relations  
Governmental Affairs

**12. Transportation Department**

Banking, Housing, and Urban Affairs  
Commerce, Science, and Transportation  
Environment and Public Works  
Governmental Affairs

**13. Treasury Department**

Banking, Housing, and Urban Affairs  
Finance  
Governmental Affairs

**14. Veterans' Affairs Department**

Governmental Affairs  
Veterans' Affairs



## II. TELEPHONE SURVEY OF EXECUTIVE BRANCH ENTITIES

In order to conduct a more in-depth analysis of committee jurisdiction over Executive Branch entities, the Joint Committee conducted a telephone survey of five departments and 17 independent agencies selected for the probability that several, or even numerous, committees and subcommittees could exercise jurisdiction. (The surveyed entities are listed at the end of the text of this section). In all cases, a senior, career employee in the Legislative Office was asked what committees and subcommittees in the House and Senate were responsible for the department's or agency's *authorizing or enabling* legislation. Committees and subcommittees responsible for appropriations legislation or the budget resolution were omitted. The definition of jurisdiction is, therefore, tightly constrained. The results of this survey are provided in summary form herewith.

Standing somewhat in contrast to impressionistic evidence are the findings for the independent agencies. (See Tables 1, 2, and 3 following the end of the text of this section). Of the seventeen agencies surveyed, a majority -- nine -- were authorized by one Senate committee and one House committee. Whereas in some cases jurisdiction was shared within the committee among two or more subcommittees (see e.g. the National Aeronautics and Space Administration), seven of the nine agencies dealt with only one subcommittee in the House and one in the Senate or only at the full committee level (see e.g. the Commodity Futures Trading Commission and the Federal Communications Commission).

Of the eight independent agencies which are authorized by more than one full House committee and one full Senate committee, the following breakdown applies:

- three are authorized by two House committees and one Senate committee (the Farm Credit Administration, the Interstate Commerce Commission and the Nuclear Regulatory Commission);
- one is authorized by one House committee and two Senate committees (National Science Foundation);
- two are authorized by two House committees and two Senate committees (the Federal Trade Commission and the Pension Benefit Guaranty Corporation);
- one, the Environmental Protection Agency, is authorized by six House committees, and four Senate committees; and
- one, the Federal Emergency Management Agency, is authorized by six House committees and five Senate committees.

FEMA and EPA are clearly the outliers in this survey. EPA is authorized by ten committees and 18 subcommittees while FEMA seeks its authority from 11 committees and 16 subcommittees. No other independent agency in this survey can challenge the splintered jurisdiction of EPA and FEMA.

Not surprisingly, the Departments, each containing diverse programs, bureaus and agencies, reported to several full committees and numerous subcommittees. The Department of Commerce appeared to be the most jurisdictionally fractured, reporting to eight Senate committees and 11 Senate subcommittees, and 10 House committees and 18 House subcommittees. The Department of Health and Human Services was similarly splintered, reporting to four Senate committees and nine Senate subcommittees, and four House committees and seven House subcommittees. The Department of Energy reported to three Senate committees and seven Senate subcommittees, and four House committees and seven House subcommittees; while the Department of Transportation reported to three Senate committees and ten Senate subcommittees, and three House committees and six House subcommittees. The Department of the Interior appeared to be the least jurisdictionally splintered, reporting to three Senate committees and seven Senate subcommittees, and two House committee and seven House subcommittee. (See Table 4 at the end of the text of this section).

**DEPARTMENTS AND AGENCIES SURVEYED***EXECUTIVE DEPARTMENTS SURVEYED*

1. Department of Commerce
2. Department of Energy
3. Department of Health and Human Services
4. Department of the Interior
5. Department of Transportation

*INDEPENDENT AGENCIES SURVEYED*

1. Commodity Futures Trading Commission
2. Environmental Protection Agency
3. Export-Import Bank of the United States
4. Farm Credit Administration
5. Federal Communications Commission
6. Federal Deposit Insurance Corporation
7. Federal Emergency Management Agency
8. Federal Trade Commission
9. International Trade Commission, United States
10. Interstate Commerce Commission
11. Merit Systems Protection Board
12. National Aeronautics and Space Administration
13. National Science Foundation
14. Nuclear Regulatory Commission
15. Pension Benefit Guaranty Corporation
16. Securities and Exchange Commission
17. Small Business Administration

**TABLE 1. NUMBER OF COMMITTEES AUTHORIZING  
CERTAIN INDEPENDENT AGENCIES**

Number of Committees	1 Senate	2 Senate	3 Senate	4 Senate	5 Senate
<b>1 House</b>	CFTC Ex-Im FCC FDIC ITC MSPB NASA SEC SBA	NSF			
<b>2 House</b>	FCA ICC NRC	FTC PBGC			
<b>3 House</b>					
<b>4 House</b>					
<b>5 House</b>					
<b>6 House</b>				EPA	FEMA

**NOTES TO ACRONYMS AND ABBREVIATIONS:**

1. CFTC: Commodity Futures Trading Commission
2. EPA: Environmental Protection Agency
3. Ex-Im: Export-Import Bank of the United States
4. FCA: Farm Credit Administration
5. FCC: Federal Communications Commission
6. FDIC: Federal Deposit Insurance Corporation
7. FEMA: Federal Emergency Management Agency
8. FTC: Federal Trade Commission
9. ITC: International Trade Commission, United States
10. ICC: Interstate Commerce Commission
11. MSPB: Merit Systems Protection Board
12. NASA: National Aeronautics and Space Administration
13. NSF: National Science Foundation
14. NRC: Nuclear Regulatory Commission
15. PBGC: Pension Benefit Guaranty Corporation
16. SEC: Securities and Exchange Commission
17. SBA: Small Business Administration



**TABLE 2. NUMBER OF SUBCOMMITTEES AUTHORIZING  
CERTAIN INDEPENDENT AGENCIES**

No. of Subcomms	0 Sen	1 Sen	2 Sen	3 Sen	4 Sen	5 Sen	6 Sen	7 Sen
0 House	SBA <sup>1</sup>							
1 House	CFTC <sup>2</sup>	Ex-Im FCC ITC MSPB NSF <sup>3</sup> EC						
2 House		FCA ICC NASA NRC	FTC PBGC					
3 House								
4 House								
5 House								
6 House					FDIC			
7 House								
8 House								
9 House								
10 House								
11 House						FEMA		EPA

**NOTES TO ACRONYMS AND ABBREVIATIONS:**

1. CFTC: Commodity Futures Trading Commission
2. EPA: Environmental Protection Agency
3. Ex-Im: Export-Import Bank of the United States

<sup>1</sup> SBA is authorized at the full committee level in both the House and Senate.

<sup>2</sup> CFTC is authorized at the full committee level in the Senate and at the subcommittee level in the House.

<sup>3</sup> Although 2 Senate committees (Labor and Human Resources and Commerce, Science, and Transportation) handle the NSF authorization, only 1 subcommittee is involved; the Labor and Human Resources Committee keeps the authorization at the full Committee level.

- 4. FCA: Farm Credit Administration
- 5. FCC: Federal Communications Commission
- 6. FDIC: Federal Deposit Insurance Corporation
- 7. FEMA: Federal Emergency Management Agency
- 8. FTC: Federal Trade Commission
- 9. ITC: International Trade Commission, United States
- 10. ICC: Interstate Commerce Commission
- 11. MSPB: Merit Systems Protection Board
- 12. NASA: National Aeronautics and Space Administration
- 13. NSF: National Science Foundation
- 14. NRC: Nuclear Regulatory Commission
- 15. PBGC: Pension Benefit Guaranty Corporation
- 16. SEC: Securities and Exchange Commission
- 17. SBA: Small Business Administration

**TABLE 3. HOUSE AND SENATE COMMITTEES AND SUBCOMMITTEES  
THAT AUTHORIZE CERTAIN INDEPENDENT AGENCIES<sup>4</sup>**

**COMMODITY FUTURES TRADING COMMISSION**

**SENATE**

*Agriculture, Nutrition and Forestry*

\* CFTC issues handled at full committee level

**HOUSE**

*Agriculture*

Subcommittee on Environment, Credit and Rural Development  
(English)

**ENVIRONMENTAL PROTECTION AGENCY**

**SENATE**

*Agriculture, Nutrition and Forestry*

\* EPA issues handled at full committee level

*Energy and Natural Resources*

Subcommittee on Energy Research and Development (Ford)

*Environment and Public Works*

Subcommittee on Clean Air and Nuclear Regulation  
(Lieberman)

Subcommittee on Clean Water, Fisheries and Wildlife  
(Graham)

Subcommittee on Superfund, Recycling and Solid Waste  
Management (Lautenberg)

Subcommittee on Toxic Substances, Research and Development  
(Reid)

Subcommittee on Water Resources, Transportation, Public  
Buildings and Economic Development (Moynihan)

*Finance*

Subcommittee on Taxation (Boren)

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<sup>4</sup> Names of subcommittee chairs are included in parentheses after the names of subcommittees.

**HOUSE***Agriculture*

Subcommittee on Specialty Crops and Natural Resources  
(Rose)

*Energy and Commerce*

Subcommittee on Commerce, Consumer Protection and  
Competitiveness (Collins)

Subcommittee on Energy and Power (Sharp)

Subcommittee on Health and the Environment (Waxman)

Subcommittee on Oversight and Investigations (Dingell)

Subcommittee on Transportation and Hazardous Material  
(Swift)

*Merchant Marine and Fisheries*

Subcommittee on Environment and Natural Resources (Studds)

Subcommittee on Oceanography, Gulf of Mexico and Outer  
Continental Shelf (Ortiz)

*Natural Resources*

Subcommittee on Energy and Mineral Resources (Lehman)

*Science, Space and Technology*

Subcommittee on Technology, Environment and Aviation  
(Valentine)

*Ways and Means*

Subcommittee on Select Revenue Measures (Rangel)

**EXPORT-IMPORT BANK OF THE UNITED STATES****SENATE***Banking, Housing and Urban Affairs*

Subcommittee on International Finance and Monetary Policy  
(Sasser)

**HOUSE***Banking, Finance and Urban Affairs*

Subcommittee on International Development, Finance, Trade  
and Monetary Policy (Frank)



**FARM CREDIT ADMINISTRATION****SENATE***Agriculture, Nutrition and Forestry*Subcommittee on Rural Development and Rural Electrification  
(Heflin)**HOUSE***Agriculture*Subcommittee on Environment, Credit and Rural Development  
(English)*Banking, Finance and Urban Affairs*Subcommittee on Economic Growth and Credit Formation  
(Kanjorski)**FEDERAL COMMUNICATIONS COMMISSION****SENATE***Commerce, Science and Transportation*

Subcommittee on Communications (Inouye)

**HOUSE***Energy and Commerce*

Subcommittee on Telecommunications and Finance (Markey)

**FEDERAL DEPOSIT INSURANCE CORPORATION****SENATE***Banking, Housing and Urban Affairs*Subcommittee on Economic Stabilization and Rural  
Development (Shelby)

Subcommittee on Housing and Urban Affairs (Sarbanes)

Subcommittee on International Finance and Monetary Policy  
(Sasser)

Subcommittee on Securities (Dodd)

**HOUSE***Banking, Finance and Urban Affairs*

Subcommittee on Consumer Credit and Insurance (Kennedy)

Subcommittee on Economic Growth and Credit Formation  
(Kanjorski)Subcommittee on Financial Institutions Supervision, Regulation  
and Deposit Insurance (Neal)Subcommittee on General Oversight, Investigations and the  
Resolution of Failed Financial Institutions (Flake)Subcommittee on Housing and Community Development  
(Gonzalez)Subcommittee on International Development, Finance, Trade  
and Monetary Policy (Frank)**FEDERAL EMERGENCY MANAGEMENT AGENCY****SENATE***Armed Services*Subcommittee on Nuclear Deterrence, Arms Control and  
Defense Intelligence (Exon)*Banking, Housing and Urban Affairs*

Subcommittee on Housing and Urban Affairs (Sarbanes)

*Commerce, Science and Transportation*

Subcommittee on Consumer (Bryan)

Subcommittee on Science, Technology and Space (Rockefeller)

*Environment and Public Works*Subcommittee on Toxic Substances, Research and Development  
(Reid)*Governmental Affairs*

\* FEMA issues handled at full committee level

**HOUSE***Armed Services*

Subcommittee on Oversight and Investigations (Sisisky)

*Banking, Finance and Urban Affairs*

Subcommittee on Consumer Credit and Insurance (Kennedy)

Subcommittee on Economic Growth and Credit Formation  
(Kanjorski)

Subcommittee on Housing and Community Development  
(Gonzalez)

*Energy and Commerce*

Subcommittee on Commerce, Consumer Protection and  
Competitiveness (Collins)

*Natural Resources*

Subcommittee on Oversight and Investigations (Miller, G.)

*Public Works and Transportation*

Subcommittee on Investigations and Oversight (Borski)

Subcommittee on Water Resources and Environment  
(Applegate)

*Science, Space and Technology*

Subcommittee on Investigations and Oversight (Hayes)

Subcommittee on Science (Boucher)

Subcommittee on Technology, Environment and Aviation  
(Valentine)

**FEDERAL TRADE COMMISSION****SENATE***Commerce, Science and Transportation*

Subcommittee on Consumer (Bryan)

*Judiciary*

Subcommittee on Antitrust, Monopolies and Business Rights  
(Metzenbaum)

**HOUSE**

*Energy and Commerce*

Subcommittee on Transportation and Hazardous Materials  
(Swift)

*Judiciary*

Subcommittee on Economic and Commercial Law (Brooks)

**INTERNATIONAL TRADE COMMISSION, UNITED STATES**

**SENATE**

*Finance*

Subcommittee on International Trade (Baucus)

**HOUSE**

*Ways and Means*

Subcommittee on Trade (Gibbons)

**INTERSTATE COMMERCE COMMISSION**

**SENATE**

*Commerce, Science and Transportation*

Subcommittee on Surface Transportation (Exon)

**HOUSE**

*Energy and Commerce*

Subcommittee on Transportation and Hazardous Materials (Swift)

*Public Works and Transportation*

Subcommittee on Surface Transportation (Rahall)

**MERIT SYSTEMS PROTECTION BOARD**

**SENATE**

*Governmental Affairs*

Subcommittee on Federal Services, Post Office and Civil  
Service (Pryor)



**HOUSE**

*Post Office and Civil Service*

Subcommittee on Civil Service (McCloskey)

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**SENATE**

*Commerce, Science and Transportation*

Subcommittee on Science, Technology and Space (Rockefeller)

**HOUSE**

*Science, Space and Technology*

Subcommittee on Space (Hall)

Subcommittee on Technology, Environment and Aviation  
(Valentine)

**NATIONAL SCIENCE FOUNDATION**

**SENATE**

*Commerce, Science and Transportation*

Subcommittee on Science, Technology and Space (Rockefeller)

*Labor and Human Resources*

\* NSF issues handled at full committee level

**HOUSE**

*Science, Space and Technology*

Subcommittee on Science (Boucher)

**NUCLEAR REGULATORY COMMISSION**

**SENATE**

*Environment and Public Works*

Subcommittee on Clean Air and Nuclear Regulation (  
Lieberman)

**HOUSE**

*Energy and Commerce*

Subcommittee on Energy and Power (Sharp)

*Natural Resources*

Subcommittee on Energy and Mineral Resources (Lehman)

**PENSION BENEFIT GUARANTY CORPORATION**

**SENATE**

*Finance*

Subcommittee on Private Retirement Plans and Oversight of  
the Internal Revenue Service (Pryor)

*Labor and Human Resources*

Subcommittee on Labor (Metzenbaum)

**HOUSE**

*Education and Labor*

Subcommittee on Labor-Management Relations (Williams)

*Ways and Means*

Subcommittee on Oversight (Pickle)

**SECURITIES AND EXCHANGE COMMISSION**

**SENATE**

*Banking, Housing and Urban Affairs*

Subcommittee on Securities (Dodd)

**HOUSE**

*Banking, Finance and Urban Affairs*

Subcommittee on Telecommunications and Finance (Markey)

**SMALL BUSINESS ADMINISTRATION**

**SENATE**

*Small Business*

- \* SBA authorization handled at full committee level

**HOUSE**

*Small Business*

- \* SBA authorization handled at full committee level

**TABLE 4. HOUSE AND SENATE COMMITTEES AND SUBCOMMITTEES  
THAT AUTHORIZE CERTAIN EXECUTIVE BRANCH DEPARTMENTS<sup>5</sup>**

**DEPARTMENT OF COMMERCE**

**SENATE**

*Banking, Housing and Urban Affairs*

Subcommittee on International Finance and Monetary Policy  
(Sasser)

*Commerce, Science and Transportation*

Subcommittee on Communications (Inouye)

Subcommittee on Foreign Commerce and Tourism (Kerry)

Subcommittee on National Ocean Policy Study (Hollings)

Subcommittee on Science, Technology and Space (Rockefeller)

*Environment and Public Works*

Subcommittee on Water Resources, Transportation, Public  
Buildings and Economic Development (Moynihan)

*Finance*

Subcommittee on International Trade (Baucus)

*Foreign Relations*

Subcommittee on Terrorism, Narcotics, and International  
Operations (Kerry)

Subcommittee on International Economic Policy, Trade, Oceans  
and Environment (Sarbanes)

*Governmental Affairs*

Subcommittee on Regulation and Government Information  
(Lieberman)

*Judiciary*

Subcommittee on Patents, Copyrights and Trademarks  
(DeConcini)

*Small Business*

\* Commerce issues handled at full committee level

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<sup>5</sup> Names of subcommittee chairs are included in parentheses after the names of subcommittees.



**HOUSE***Banking, Finance and Urban Affairs*

Subcommittee on Economic Growth and Credit Formation  
(Kanjorski)

*Energy and Commerce*

Subcommittee on Telecommunications and Finance (Markey)  
Subcommittee on Transportation and Hazardous Materials  
(Swift)

*Foreign Affairs*

Subcommittee on Economic Policy and Trade and Environment  
(Gejdenson)

*Judiciary*

Subcommittee on Intellectual Property and Judiciary  
Administration (Hughes)

*Merchant Marine and Fisheries*

Subcommittee on Coast Guard and Navigation (Tauzin)  
Subcommittee on Environment and Natural Resources (Studds)  
Subcommittee on Fisheries Management (Manton)  
Subcommittee on Merchant Marine (Lipinski)  
Subcommittee on Oceanography, Gulf of Mexico and the Outer  
Continental Shelf (Ortiz)

*Post Office and Civil Service*

Subcommittee on Census, Statistics and Postal Personnel  
(Sawyer)

*Public Works and Transportation*

Subcommittee on Economic Development (Wise)

*Science, Space and Technology*

Subcommittee on Technology, Environment and Aviation  
(Valentine)  
Subcommittee on Space (Hall)

*Small Business*

Subcommittee on Minority Enterprise, Finance and Urban  
Development (Mfume)  
Subcommittee on SBA Legislation and the General Economy  
(LaFalce)  
Subcommittee on Procurement, Taxation and Tourism (Bilbray)

*Ways and Means*

Subcommittee on Trade (Gibbons)

**DEPARTMENT OF ENERGY****SENATE***Armed Services*Subcommittee on Military Readiness and Defense  
Infrastructure (Glenn)Subcommittee on Nuclear Deterrence, Arms Control and  
Defense Intelligence (Exon)*Energy and Natural Resources*Subcommittee on Energy Research and Development (Ford)  
Subcommittee on Mineral Resources Development and  
Production (Akaka)Subcommittee on Renewable Energy, Energy Efficiency and  
Competitiveness (Bingaman)

Subcommittee on Water and Power (Bradley)

*Environment and Public Works*Subcommittee on Clean Air and Nuclear Regulation  
(Lieberman)**HOUSE***Armed Services*

Subcommittee on Military Acquisitions (Dellums)

Subcommittee on Readiness (Hutto)

*Energy and Commerce*

Subcommittee on Energy and Power (Sharp)

*Natural Resources*

Subcommittee on Energy and Mineral Resources (Lehman)

Subcommittee on Oversight and Investigations (Miller)

*Science, Space and Technology*

Subcommittee on Energy (Lloyd)

Subcommittee on Science (Boucher)

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES****SENATE***Finance*

Subcommittee on Health for Families and the Uninsured  
(Riegle)

Subcommittee on Medicare and Long-Term Care (Rockefeller)

Subcommittee on Social Security and Family Policy (Breaux)

*Indian Affairs*

\* the committee has no subcommittees

*Judiciary*

Subcommittee on Immigration and Refugee Affairs (Kennedy)

Subcommittee on Juvenile Justice (Kohl)

*Labor and Human Resources*

\* health issues handled at full committee level

Subcommittee on Aging (Mikulski)

Subcommittee on Children, Families, Drugs and Alcoholism  
(Dodd)

Subcommittee on Disability Policy (Harkin)

**HOUSE***Education and Labor*

Subcommittee on Human Resources (Martinez)

Subcommittee on Select Education and Civil Rights (Owens)

*Energy and Commerce*

Subcommittee on Health and the Environment (Waxman)

*Judiciary*

Subcommittee on International Law, Immigration and Refugees  
(Mazzoli)

*Ways and Means*

Subcommittee on Health (Stark)

Subcommittee on Human Resources (Ford)

Subcommittee on Social Security (Jacobs)

**DEPARTMENT OF THE INTERIOR****SENATE***Energy and Natural Resources*

- Subcommittee on Energy Research and Development (Ford)
- Subcommittee on Mineral Resources Development and Production (Akaka)
- Subcommittee on Public Lands, National Parks and Forests (Bumpers)
- Subcommittee on Renewable Energy, Energy Efficiency and Competitiveness (Bingaman)
- Subcommittee on Water and Power (Bradley)

*Environment and Public Works*

- Subcommittee on Clean Water, Fisheries, and Wildlife (Graham)

*Indian Affairs*

- \* the committee has no subcommittees

**HOUSE***Merchant Marine and Fisheries*

- Subcommittee on Environment and Natural Resources (Studds)
- Subcommittee on Oceanography, Gulf of Mexico and the Outer Continental Shelf (Ortiz)

*Natural Resources*

- Subcommittee on Energy and Mineral Resources (Lehman)
- Subcommittee on Insular and International Affairs (de Lugo)
- Subcommittee on National Parks, Forests and Public Lands (Vento)
- Subcommittee on Native American Affairs (Richardson)
- Subcommittee on Oversight and Investigations (Miller, G.)



**DEPARTMENT OF TRANSPORTATION****SENATE***Banking, Housing and Urban Affairs*

Subcommittee on Housing and Urban Affairs (Sarbanes)

*Commerce, Science and Transportation*

Subcommittee on Aviation (Ford)

Subcommittee on Communications (Inouye)

Subcommittee on Consumer (Bryan)

Subcommittee on Foreign Commerce and Tourism (Kerry)

Subcommittee on Merchant Marine (Breaux)

Subcommittee on National Ocean Policy Study (Hollings)

Subcommittee on Science, Technology and Space (Rockefeller)

Subcommittee on Surface Transportation (Exon)

*Environment and Public Works*Subcommittee on Water Resources, Transportation, Public  
Buildings and Economic Development (Moynihan)**HOUSE***Energy and Commerce*Subcommittee on Commerce, Consumer Protection and  
Competitiveness (Collins)Subcommittee on Transportation and Hazardous Materials  
(Swift)*Merchant Marine and Fisheries*

Subcommittee on Coast Guard and Navigation (Tauzin)

Subcommittee on Merchant Marine (Lipinski)

*Public Works and Transportation*

Subcommittee on Aviation (Oberstar)

Subcommittee on Surface Transportation (Rahall)

### III. ANALYSIS OF HEARINGS CONDUCTED IN 1991

In this final segment of the study, the Joint Committee sought to capture the totality of interaction between committees and agencies by examining the hearing appearances of Executive Branch witnesses.

We identified the committees and subcommittees before which witnesses of every executive entity testified during a particular period. Specifically, we examined hearings conducted in 1991 which were subsequently printed (as noted in the *Congressional Information Service Index*) to identify those at which Executive Branch witnesses appeared. Dates of witness appearances and other information was entered into a database for sorting and tabulation by department or agency. It proved infeasible to conduct an automated examination of CIS's own on-line information system.

For 1991, we found 2,263 printed hearings at which Executive Branch officials testified. Overall, about 3,000 hearings are conducted per year. Accordingly, testimony at approximately 800 hearings was received from non-Executive Branch individuals such as state and local officials, academicians, and private citizens, or was heard in executive session and thus not printed.

Several qualifiers about the data and the methodology are pertinent. First, committees are not required to print hearings, and the *CIS Index* contains information on printed hearings only. The small number of unprinted hearings (in the contemporary Congress approximately 5 percent of all hearings are unprinted) should not affect our overall results. Also, only hearings printed through December 1992 are reflected in this study.

Second, only 1991 (the first session of the 102nd Congress) was surveyed. This was the most recent year for which nearly complete data were available; further, time constraints precluded a longitudinal survey. However, it is likely that 1991 is not atypical of other periods.

Third, we categorized witnesses based on their parent departments/agencies. For example, witnesses listed in the CIS as representing the National Institutes of Health were categorized as representing the Department of Health and Human Services. This categorization was used in the interest of consistency and to facilitate a broader analysis of Executive entity--committee/subcommittee interaction.

Fourth, if more than one witness from a particular department or agency testified before a committee/subcommittee during a hearing, the hearing was only counted once (for a total of 2,263). A hearing with morning and afternoon sessions (where noted in CIS) also was scored as one hearing.

Fifth, we have excluded non-legislative select/special committees, namely Senate Aging and House Aging; Children, Youth, and Families; Hunger; and Narcotics Abuse and Control (House entities no longer exist). Finally, panels and task forces, used by some committees in lieu of or in addition to subcommittees, were counted as subcommittees for the purposes of this analysis.

Table I, appearing at the end of the text of this section, summarizes the information on hearing appearances by executive department witnesses. The Department of Defense, with 290 appearances, was the department most often called to Capitol Hill. With testimony before a total of 92 different panels, DOD was also the department most in demand across a wide spectrum of committees and subcommittees. By contrast, the Department of Veterans Affairs appeared 31 times before 12 panels. All other departments fell between the extremes marked by DOD and Veterans Affairs. It is evident that executive departments respond not only to the committees and subcommittees with legislative jurisdiction over their programs but, in some cases, to a large array of other panels.

Table II, appearing at the end of text of this section, summarizes information on hearing appearances by witnesses of the independent agencies. Several agencies are called before many committees and subcommittees. For example, although EPA is authorized by 10 full committees and 18 subcommittees (as determined by the May telephone survey), during 1991 the agency was called to testify 122 times before a total of 54 panels. Jurisdictional splintering may be minimal, in other cases, but an organization's expertise is nevertheless required by numerous panels. For example, witnesses representing the Federal Reserve System testified 36 times before 21 panels. Some relatively small and less visible agencies are infrequently called to the Hill and then only by their authorizing or funding panels. In this category are found such agencies as the Appalachian Regional Commission, the Administrative Conference of the United States, and the Federal Retirement Thrift Investment Board.

This data confirm impressionistic evidence that many Executive Branch entities are called to testify before not only their authorizing and appropriating panels but also before a wide range of other committees and subcommittees. In short, Executive Branch interaction with the Congress is broad.

TO: Joint Committee on the Organization of Congress

SUBJECT: Trends in Congressional Oversight

At the recent Annapolis retreat of the Joint Committee, a number of Members expressed interest in contemporary trends in Congressional oversight. Consistent with this interest, the following information is being provided to the entire membership.

The Legislative Reorganization Act of 1946 directed each standing committee to "exercise continuous watchfulness of the execution, by the administrative agencies concerned, of any laws, the subject matter of which is within the jurisdiction of such committee; and, for that purpose, [to] study all pertinent reports and data submitted to the Congress by the agencies in the executive branch of the Government." Thus, Congress, for the first time, formally endorsed and encouraged Congressional oversight.

In the years following 1946, the Congress continued to press itself to do more oversight. In the 1970 amendments to the 1946 Legislative Reorganization Act, Congress attempted to stimulate more oversight by requiring committees to issue biennial reports on oversight activities (now included in the biennial "Activity Report" published by each committee), increasing staff, and strengthening the GAO and CRS. Also in 1974, in an effort to streamline policy making and improve legislative structure and organization, the House adopted a set of reforms (H. Res. 988) that in part made changes in the oversight rules, including encouraging committees to establish oversight subcommittees. The Senate interest in oversight was indicated in the *Final Report of the Commission on the Operation of the Senate* (December, 1976), for example, and by Senate support of sunset legislation in 1978.

Trends in oversight behavior are evident upon examination of Congressional committee hearings and meetings held on non-legislative matters. Although this is just one indicator of oversight behavior, it is assumed to be a reliable one. However, numbers of hearings and meetings do not automatically correlate with comprehensive, systematic and effective oversight; the information presented in this report is of a quantitative nature only and implies no qualitative conclusions.

Reproduced here is a table appearing in Keeping a Watchful Eye: The Politics of Congressional Oversight, by Joel D. Aberbach (Brookings; Wash., DC, 1990). This table captures the trend in oversight activity for the years 1961-1983 by displaying data on *non-legislative* hearing and meeting activity for the first six months (January 1 - July 4) for each odd-numbered year (except 1979 when data could not be coded).



**HEARINGS AND MEETINGS OF CONGRESSIONAL COMMITTEES**  
**JANUARY 1 - JULY 4, 1961-1983<sup>1</sup>**

YEAR	TOTAL DAYS <sup>2</sup>	OVERSIGHT DAYS <sup>3</sup>	OVERSIGHT AS PERCENT OF TOTAL
1961	1,789	146	8.2
1963	1,820	159	8.7
1965	2,055	141	6.9
1967	1,797	171	9.5
1969	1,804	217	12.0
1971	2,063	187	9.1
1973	2,513	290	11.5
1975	2,552	459	18.0
1977	3,053	537	17.6
1981	2,222	434	19.5
1983	2,331	587	25.2
<b>PERCENTAGE CHANGE</b>			
1961-71	15.3	28.1	11.0
1961-77	70.7	267.8	114.6
1961-83	30.3	302.1	207.3

<sup>1</sup>Hearings and meetings held by Appropriations, Rules, Administration and Joint Committees are excluded. The 1979 data are missing because they were not coded.

<sup>2</sup>Total days means a count of the total number of days that committees met for any purpose during the time covered.

<sup>3</sup>Oversight days means days committees devoted to primary-purpose oversight. Day is shorthand for a hearing or meeting.

The data, extracted from the *Daily Digest* of the Congressional Record, include meetings and hearings of all House and Senate committees except House and Senate Appropriations, House Rules, House Administration, and Senate Rules and Administration. The committees dealing with rules and administration were excluded from the analysis because of their focus on internal chamber business. The Appropriations Committees were excluded for reasons of comparability; until the 93rd Congress, the House Appropriations Committee followed a unique tradition: it reported very few of its hearings and meetings for inclusion in the *Daily Digest*.

The table reveals that oversight increased over the years studied in absolute terms as well as percentage terms. The final line in the table encapsulates the entire data set: while total hearing days per year increased from 1,789 in 1961 to 2,331 in 1983, or a 30.3% overall increase, oversight hearings per year increased from 146 to 587 or a 302.1% total increase. Oversight as a percentage of total hearings increased from 8.2% in 1961 to 25.2% in 1983, or a 207.3% total overtime increase. Aberbach ascribes this increase to a variety of external factors, including the increasing size and complexity of government, negative reaction to the executive's accrual and/or abuse of power, and the increased electoral value of oversight. He also suggested that various internal factors, such as larger and better staff, also contributed to the increase in oversight activity.

Although no statistical data has been collected and tabulated since the Aberbach study, impressionistic and anecdotal evidence suggests that the trend in oversight has continued to increase since 1983. Furthermore, it is argued that Aberbach's work even understated oversight by limiting its definition to only non-legislative hearings and omitting various other methods of oversight, including appropriations and reauthorization hearings, executive reporting requirements, informal meetings between legislators or staff and the executive branch and the like. In sum, Congress since 1961 appears to be increasingly committed to oversight activities.

## JURISDICTIONAL EVOLUTION OF HOUSE AND SENATE COMMITTEES

The tables detail the jurisdictional development of each of today's House and Senate standing committees since 1947, the effective year of the Legislative Reorganization Act of 1946 (60 Stat. 812). The 1946 Act often is regarded as having established the modern committee system. It drastically reduced the number of House and Senate committees by consolidating committees with similar responsibilities and gave committees their first written jurisdictions.

For each committee, the tables contain five columns of information. The first column (1947) lists the jurisdiction accorded each committee by the 1946 Reorganization Act. The last column (1993) identifies the current jurisdiction of each committee as contained in House Rule X, clause 1 for House committees and Senate Rule XXV, paragraph 1 for Senate committees.<sup>1</sup> The middle three columns trace jurisdictional changes between these two years. In addition, we have noted where a standing committee did not exist during the period covered by a particular column.

Each chamber has undergone one major jurisdictional reorganization since 1947. In the House this change took effect in 1975, following the House's adoption of H.Res. 988 on October 8, 1974 (93rd Congress). The resolution was the work product of the House Select Committee on Committees (the "Bolling Committee"), as amended. In the Senate, the major jurisdictional reform took effect in 1977, upon the adoption of S.Res. 4 (95th Congress, February 4, 1977). The Senate resolution was the work product of the Senate's Temporary Select Committee to Study the Senate Committee System (the "Stevenson Committee"), also amended.

Accordingly, the middle column (number three) of each committee's profile identifies jurisdictional changes resulting from these reform efforts that took effect on January 3, 1975 for the House, or February 4, 1977 for the Senate. For both chambers, the middle column identifies four types of jurisdictional changes, classified as "added," "lost," "clarified," or "deleted explicit language." For a particular committee, "added" refers to issues that appear to have been transferred to the committee from another committee. Contrarily, "lost" refers to issues that appear to have been transferred from the indicated committee to another committee. "Clarified" refers to changes apparently to reflect more accurately issues over which a committee has had jurisdiction, at least in part. In some cases the clarification reflects enhanced jurisdiction, although in many cases the

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<sup>1</sup> The most recent available editions of the House and Senate Rules Manuals, those for the 102nd Congress (1991-1992), were the source for the 1993 column. Committee jurisdictions in these manuals were assumed to be current.

clarification merely puts into rule language the existing practice of the chamber. Finally, "deleted explicit language" refers to rule language explicitly removed, but apparently without any resulting loss of jurisdiction; in many cases, specific language was merely replaced by new, broader language.

It some cases it was difficult to determine with certainty whether issues were added, lost, clarified, or explicitly deleted. For example, in some instances available sources appeared to contain contradictory information; in others, none of the sources comprehensively addressed the changes.

For both chambers only changes in actual rule language have been tracked comprehensively. However, due to differences in available parliamentary resources, the House table also identifies some shifts of issues not precisely identified in rule language. An example on point is responsibility for the Commodity Credit Corporation, which apparently was shifted from the Banking Committee to the Agriculture Committee in 1975, although not expressly stated in either committee's jurisdiction.

Other activities significantly affecting jurisdiction, such as inter-committee memoranda of understanding and bill referral patterns over time, have not been examined and are not reflected in the tables. Some of the memoranda pertain to agreements between committees over disputed subjects; for example, the agreement between the Senate Committees on Labor and Human Resources and Commerce, Science, and Transportation addressing shared responsibility over the National Science Foundation.

In addition to language added, lost, clarified, or explicitly deleted, the middle column also notes where oversight responsibility was assigned to committees by the 1975 House or 1977 Senate reforms. This is denoted as "comprehensive policy oversight" for the Senate and "special oversight" for the House, consistent with the terminology used in each chambers's rules. Senate Rule XXV, paragraph 1 contains oversight responsibilities of Senate committees, while oversight duties of House committees are listed in House Rule X, clauses 1 and 3.

For each House committee, the second column relates jurisdictional changes from 1947 until January 3, 1975; the fourth column lists such changes since that date. Similarly, for each Senate committee the second column relates jurisdictional changes from 1947 until February 4, 1977, while the fourth column lists subsequent changes. Changes in these columns were identified primarily by comparing jurisdictional rule language from various Congresses and from notations in House and Senate Rules Manuals. The effective dates of these interim changes generally are noted.



Both tables also identify changes to committee names since 1947. Jurisdictional shifts are described in terms of committee names at the time, to convey more accurately the committee structure and responsibilities of the period. Also, each committee's profile contains a historical footnote as to its roots.

The following sources were among those consulted: the Legislative Reorganization Act of 1946 (60 Stat. 812); S.Res. 4 (95th Congress), as agreed to on February 4, 1977; H.Res. 988 (93rd Congress) as agreed to on October 8, 1974; a committee print from the House Select Committee on Committees entitled "Committee Reform Amendments of 1974: Explanation of H.Res. 988 as Adopted by the House of Representatives, October 8, 1974"; a report of the Senate Rules Committee (S.Rept. 95-2) entitled "Committee Systems Reorganization Amendments of 1977"; the Congressional Quarterly Weekly Report; the Congressional Record; Committees in the U.S. Congress, 1947-1992, by Garrison Nelson; Congressional Committees, 1789-1982: a Checklist, by Walter Stubbs; and various editions of the Senate Manual and Rules of the House of Representatives.

Finally, this work should not be regarded as definitive, as the House and Senate Parliamentarians are the authorities on committee jurisdictional issues.

TABLE 1  
HOUSE COMMITTEE ON AGRICULTURE

1947 - AGRICULTURE	INTERIM	1975 - AGRICULTURE	INTERIM	1993 - AGRICULTURE
<p>Agriculture, generally</p> <p>Inspection of livestock &amp; meat products</p> <p>Animal industry &amp; diseases of animals</p> <p>Adulteration of seeds, insect pests, &amp; protection of birds &amp; animals in forest reserves</p> <p>Agricultural colleges &amp; experiment stations</p> <p>Forestry in general, &amp; forest reserves other than those created from the public domain</p> <p>Agricultural economics &amp; research</p> <p>Agricultural &amp; industrial chemistry</p> <p>Dairy industry</p> <p>Entomology &amp; plant quarantine</p> <p>Human nutrition &amp; home economics</p> <p>Plant industry, soils &amp; agricultural engineering</p> <p>Agricultural education extension services</p> <p>Extension of farm credit &amp; farm security</p> <p>Rural electrification</p> <p>Agricultural production &amp; marketing &amp; stabilization of prices of agricultural products</p> <p>Crop insurance &amp; soil conservation</p>	No change	<p>Added jurisdiction over: Commodities (not including distribution outside of the U.S.) (including Commodity Credit Corporation) from then Committee on Banking &amp; Currency</p> <p><u>Lost jurisdiction over:</u> Food programs for children in schools to the Committee on Education &amp; Labor</p> <p>Foreign distribution &amp; non-domestic production of commodities, &amp; international commodity agreements (other than those involving sugar) to the Committee on Foreign Affairs</p> <p><u>Clarified jurisdiction over:</u> Commodities exchanges</p> <p>Rural development</p>	No change	<p>Adulteration of seeds, insect pests, &amp; protection of birds &amp; animals in forest reserves</p> <p>Agriculture generally</p> <p>Agricultural &amp; industrial chemistry</p> <p>Agricultural colleges &amp; experiment stations</p> <p>Agricultural economics &amp; research</p> <p>Agricultural education extension services</p> <p>Agricultural production &amp; marketing &amp; stabilization of prices of agricultural products, &amp; commodities (not including distribution outside of the U.S.)</p> <p>Animal industry &amp; diseases of animals</p> <p>Crop insurance &amp; soil conservation</p> <p>Dairy industry</p> <p>Entomology &amp; plant quarantine</p> <p>Extension of farm credit &amp; farm security</p> <p>Forestry in general, &amp; forest reserves other than those created from the public domain</p> <p>Human nutrition &amp; home economics</p> <p>Inspection of livestock &amp; meat products</p> <p>Plant industry, soils, &amp; agricultural engineering</p> <p>Rural electrification</p> <p>Commodities exchanges</p> <p>Rural development</p>

The Committee on Agriculture was established in 1820.

## HOUSE COMMITTEE ON APPROPRIATIONS

1947 - APPROPRIATIONS	INTERIM	1975 - APPROPRIATIONS	INTERIM	1993 - APPROPRIATIONS
<p>Appropriation of the revenue for the support of the Government</p>	<p>Added jurisdiction over: The Committee shall have the fiscal oversight function provided for in clause 2(b)(3) [to conduct such studies &amp; examinations of the organization &amp; operation of executive departments &amp; other executive agencies as it may deem necessary] (First given in 1943, but put into standing rules in 1-3-53)</p> <p>The Budget hearing function provided for in clause 4(a) [hearings on the Presidential budget as a whole] (1-22-71)</p> <p>Rescissions of appropriations contained in appropriation Acts Transfers of unexpended balances</p> <p>The amount of new spending authority (as described in the Congressional Budget Act of 1974) which is to be effective for a fiscal year, including bills &amp; resolutions (reported by other committees) which provide new spending authority &amp; are referred to the committee under clause 4(a) [amounts in excess of a committee's allocation under the most recent budget resolution]</p>	<p>No change [1974 language perfected by H.Res. 988, effective 1-3-75. These changes reflected in previous column.]</p>	<p>No change</p>	<p>Appropriation of the revenue for the support of the Government</p> <p>Rescissions of appropriation Acts contained in appropriation Acts Transfers of unexpended balances</p> <p>The amount of new spending authority (as described in the Congressional Budget Act of 1974) which is to be effective for a fiscal year, including bills &amp; resolutions (reported by other committees) which provide new spending authority &amp; are referred to the committee under clause 4(a) [amounts in excess of a committee's allocation under the most recent budget resolution]</p> <p>The Committee has:</p> <p>the fiscal oversight function provided for in clause 2(b)(3) [to conduct such studies &amp; examinations of the organization &amp; operation of executive departments &amp; other executive agencies as it may deem necessary] &amp; the budget hearing function provided for in clause 4(a) [hearings on the Presidential budget as a whole]</p>

The Committee on Appropriations was established in 1865.

## HOUSE COMMITTEE ON ARMED SERVICES

1947 - ARMED SERVICES	INTERIM	1975 - ARMED SERVICES	INTERIM	1993 - ARMED SERVICES
<p>Common defense generally</p> <p>The War Department &amp; the Military Establishment generally</p> <p>The Navy Department &amp; the Naval Establishment generally</p> <p>Soldiers &amp; Sailors' homes</p> <p>Pay, promotion, retirement, &amp; other benefits &amp; privileges of members of the armed forces</p> <p>Selective service</p> <p>Size &amp; composition of the Army &amp; Navy</p> <p>Forts, arsenals, military reservations, &amp; navy yards</p> <p>Ammunition depots</p> <p>Conservation, development, &amp; use of naval petroleum &amp; oil shale reserves</p> <p>Strategic &amp; critical materials necessary for the common defense</p> <p>Scientific research &amp; development in support of the armed services</p>	<p><u>Clarified jurisdiction over:</u></p> <p>The Dept. of Defense, generally, including the Departments of the Army, Navy, &amp; Air Force generally</p> <p>[due to creation of the Dept. of Defense by the National Security Act] (1-3-53)</p> <p>Ammunition depots; forts; arsenals, Army, Navy, &amp; Air Force</p> <p>reservations &amp; establishments (1-3-53)</p> <p>Size &amp; composition of the Army, Navy &amp; Air Force (1-3-53)</p>	<p><u>Lost jurisdiction over:</u></p> <p>The education of military dependents to the Committee on Education &amp; Labor</p> <p><u>Added special oversight over:</u></p> <p>international arms control &amp; disarmament, &amp; the education of military dependents in schools</p>	<p><u>Added jurisdiction over:</u></p> <p>Military applications of nuclear energy from the Joint Committee on Atomic Energy (1-4-77)</p>	<p>Common defense generally</p> <p>The Department of Defense generally, including the Departments of the Army, Navy, &amp; Air Force generally</p> <p>Ammunition depots; forts; arsenals; Army, Navy, &amp; Air force reservations &amp; establishments</p> <p>Conservation, development, &amp; use of naval petroleum &amp; oil shale reserves</p> <p>Pay, promotion, retirement, &amp; other benefits &amp; privileges of members of the armed forces</p> <p>Scientific research &amp; development in support of the armed services</p> <p>Selective service</p> <p>Size &amp; composition of the Army, Navy, &amp; Air Force</p> <p>Soldiers' &amp; sailors' homes</p> <p>Strategic &amp; critical materials necessary for the common defense</p> <p>Military applications of nuclear energy</p> <p><u>Special oversight:</u></p> <p>international arms control &amp; disarmament, &amp; the education of military dependents in schools</p>

The legislative jurisdiction of the Joint Committee on Atomic Energy was eliminated on 1-4-77. JCAE was abolished later on 8-5-77.

Its jurisdiction was transferred to several committees including: Armed Services; Energy & Commerce; Foreign Affairs; Natural Resources; & Science, Space, & Technology.

The Committee on Armed Services was established in 1947 by the Legislative Reorganization Act of 1946. It combined the Committee on Military Affairs & the Committee on Naval Affairs, which were created in 1922.



## HOUSE COMMITTEE ON BANKING, FINANCE, AND URBAN AFFAIRS

1947 BANKING & CURRENCY	INTERIM	1975 - BANKING, CURRENCY, & HOUSING	INTERIM	1993 - BANKING, FINANCE, & URBAN AFFAIRS
<p>Banking &amp; currency generally</p> <p>Financial aid to commerce &amp; industry, other than matters relating to such aid which are specifically assigned to other committees under this rule</p> <p>Deposit insurance</p> <p>Public &amp; private housing</p> <p>Federal Reserve System</p> <p>Gold &amp; silver, including the coinage thereof</p> <p>Issuance of notes &amp; redemption thereof</p> <p>Valuation &amp; revaluation of the dollar</p> <p>Control of prices of commodities, rents, or services</p>	<p>Added <u>jurisdiction</u> over:</p> <p>Impact on the economy of tax-exempt foundations &amp; charitable trusts from the Select Committee on Small Business (4-27-71)</p>	<p>Renamed Committee on Banking, Currency, &amp; Housing</p> <p>Added jurisdiction over:</p> <p>Renegotiation from Committee on Ways &amp; Means</p> <p>International Financial &amp; Monetary Organizations from the Committee on Foreign Affairs</p> <p>Lost jurisdiction over:</p> <p>Commodity Credit Corporation to the Committee on Agriculture</p> <p>Export controls to the Committee on Foreign Affairs</p> <p>International economic policy to the Committee on Foreign Affairs</p> <p>Construction of nursing home facilities to then Committee on Interstate &amp; Foreign Commerce</p> <p>Urban mass transportation to then Committee on Public Works</p> <p>Assistance to &amp; protection of small business, including financial aid from then Committee on Banking &amp; Currency to Committee on Small Business</p> <p>Participation of small business enterprises in Federal procurement &amp; Government contracts to Committee on Small Business</p>	<p>Renamed Committee on Banking, Finance, &amp; Urban Affairs (1-4-77)</p>	<p>Banks &amp; banking, including deposit insurance &amp; Federal monetary policy</p> <p>Money &amp; credit, including currency &amp; the issuance of notes &amp; redemption thereof; gold &amp; silver, including the coinage thereof; valuation &amp; revaluation of the dollar</p> <p>Urban development</p> <p>Public &amp; private housing</p> <p>Economic stabilization, defense production, renegotiation, &amp; control of the price of commodities, rents, &amp; services</p> <p>International finance</p> <p>Financial aid to commerce &amp; industry (other than transportation)</p> <p>International financial &amp; monetary organizations</p>

## HOUSE COMMITTEE ON BANKING, FINANCE, AND URBAN AFFAIRS - CONTINUED

1947 - BANKING & CURRENCY	INTERIM	1975 - BANKING, CURRENCY, & HOUSING	INTERIM	1993 - BANKING, FINANCE, & URBAN AFFAIRS
		<u>Clarified jurisdiction over:</u> Federal monetary policy Money & credit Urban development Economic stabilization & defense production International finance Financial aid to commerce & industry (other than transportation)		

The Committee on Banking, Finance, & Urban Affairs was established as the Committee on Banking & Currency in 1865.

## HOUSE COMMITTEE ON THE BUDGET

1947 - BUDGET	INTERIM	1975 - BUDGET	INTERIM	1993 - BUDGET
The Committee on the Budget did not exist	<p>The Committee on the Budget was created by the Congressional Budget Act of 1974 (7-12-74)</p> <p>All concurrent resolutions on the budget (as defined in section 3 (4)(A) of the Congressional budget Act of 1974) &amp; other matters required to be referred to the committee under titles III &amp; IV of that Act</p> <p>To report the matters required to be reported by it under titles III &amp; IV on the Congressional Budget Act of 1974</p> <p>To review, on a continuing basis, the conduct by the Congressional Budget Office of its functions &amp; duties</p> <p><u>Added special oversight over:</u></p> <p>To make continuing studies of the effect on budget outlays of relevant existing &amp; proposed legislation &amp; to report the results of such studies to the House on a recurring basis</p> <p>To request &amp; evaluate continuing studies of tax expenditures, to devise methods of coordinating tax expenditures, policies, &amp; programs with direct budget outlays, &amp; to report the results of such studies to the House on a recurring basis</p>		<p><u>Added jurisdiction over:</u></p> <p>Senate joint or concurrent resolutions constituting Congressional response to a Presidential sequestration order issued pursuant to the report of the Comptroller General under sec. 252(b) of that law by the Balanced Budget &amp; Emergency Deficit Control Act of 1985 (12-12-85)</p>	<p>All concurrent resolutions on the budget (as defined in section 3 of the Congressional Budget Act of 1974) &amp; other matters required to be referred to the committee under titles III &amp; IV of that Act</p> <p>To report the matters required to be reported by it under titles III &amp; IV of the Congressional Budget Act of 1974</p> <p>To review, on a continuing basis, the conduct by the Congressional Budget Office of its functions &amp; duties</p> <p><u>Legislative jurisdiction &amp; special oversight:</u></p> <p>To make continuing studies of the effect on budget outlays of relevant existing &amp; proposed legislation &amp; to report the results of such studies to the House on a recurring basis</p> <p>To request &amp; evaluate continuing studies of tax expenditures, to devise methods of coordinating tax expenditures, policies, &amp; programs with direct budget outlays, &amp; to report the results of such studies to the House on a recurring basis</p>

The Committee on the Budget was established in 1974 by sec. 101 of the Congressional Budget Act of 1974.

## HOUSE COMMITTEE OF THE DISTRICT OF COLUMBIA

1947 - DISTRICT OF COLUMBIA	INTERIM	1975 - DISTRICT OF COLUMBIA	INTERIM	1993 - DISTRICT OF COLUMBIA
<p>All measures relating to the municipal affairs of the District of Columbia in general, other than appropriations thereof, including—</p> <p>Public health &amp; safety, sanitation, &amp; quarantine regulations</p> <p>Regulation of sale of intoxicating liquors</p> <p>Adulteration of food &amp; drugs</p> <p>Taxes &amp; tax sales</p> <p>Insurance, executors, administrators, wills &amp; divorce</p> <p>Municipal &amp; juvenile courts</p> <p>Incorporation &amp; organization of societies</p> <p>Municipal code of amendments to the criminal &amp; corporation laws</p>	No change	<p>Added jurisdiction over: Saint Elizabeth's Hospital from the Committee on Education &amp; Labor</p>	No change	<p>All measures relating to the municipal affairs of the District of Columbia in general, other than appropriations thereof, including:</p> <p>Adulteration of foods &amp; drugs</p> <p>Incorporation &amp; organization of societies</p> <p>Insurance, executors, administrators, wills, &amp; divorce</p> <p>Municipal code &amp; amendments to the criminal &amp; corporation laws</p> <p>Municipal &amp; juvenile courts</p> <p>Public health &amp; safety, sanitation, &amp; quarantine regulations</p> <p>Regulation of sale of intoxicating liquors</p> <p>Taxes &amp; tax sales</p> <p>Saint Elizabeths hospital</p>

The Committee on the District of Columbia was established in 1808.



## HOUSE COMMITTEE ON EDUCATION AND LABOR

1947 - EDUCATION & LABOR	INTERIM	1975 - EDUCATION & LABOR	INTERIM	1993 - EDUCATION & LABOR
<p>Measures relating to education or labor generally</p> <p>Mediation &amp; arbitration of labor disputes</p> <p>Wages &amp; hours of labor</p> <p>Convict labor &amp; the entry of goods made by convicts into interstate commerce</p> <p>Regulation or prevention of importation of foreign laborers</p> <p>under contract</p> <p>Child labor</p> <p>Labor statistics</p> <p>Labor standards</p> <p>School-lunch program</p> <p>Vocational rehabilitation</p> <p>United States Employees' Compensation Commission</p> <p>Columbia Institution for the Deaf, Dumb, &amp; Blind; Howard University; Freedmen's Hospital; &amp; Saint Elizabeth's Hospital</p> <p>Welfare of miners</p>	No change	<p><u>Added jurisdiction over:</u></p> <p>Work incentive programs from the Committee on Ways &amp; Means</p> <p>Education of Indians from then Committee on Interior &amp; Insular Affairs</p> <p>The education of military dependents from the Committee on Armed Services</p> <p><u>Lost jurisdiction over:</u></p> <p>St. Elizabeth's Hospital to the Committee on the District of Columbia</p> <p>International education to the Committee on Foreign Affairs</p> <p>Intergovernmental personnel to the Committee on Post Office &amp; Civil Service</p> <p><u>Clarified jurisdiction over:</u></p> <p>Food programs for children in schools [including transfer of jurisdiction from the Committee on Agriculture]</p> <p><u>Added special oversight over:</u></p> <p>Domestic education programs &amp; institutions, &amp; programs of student assistance, which are within the jurisdiction of other committees</p>	No change	<p>Measures relating to education or labor generally</p> <p>Child labor</p> <p>Columbia institution for the Deaf, Dumb, &amp; Blind; Howard University; Freedmen's Hospital</p> <p>Convict labor &amp; the entry of goods made by convicts into interstate commerce</p> <p>Labor standards</p> <p>Labor statistics</p> <p>Mediation &amp; arbitration of labor disputes</p> <p>Regulation or preventions of importation of foreign laborers</p> <p>under contract</p> <p>Food programs for children in schools</p> <p>U.S. Employees' Compensation Commission</p> <p>Vocational rehabilitation</p> <p>Wages &amp; hours of labor</p> <p>Welfare of miners</p> <p>Work Incentive Programs</p> <p><u>Special Oversight:</u></p> <p>Domestic education programs &amp; institutions, &amp; programs of student assistance, which are within the jurisdiction of other committees</p>

The Committee on Education & Labor was established in 1947 by the Legislative Reorganization Act of 1946. It combined the Committee on Education & the Committee on Labor, created in 1867 & 1883, respectively.

## HOUSE COMMITTEE ON ENERGY AND COMMERCE

1947 - INTERSTATE & FOREIGN COMMERCE	INTERIM	1975 - COMMERCE & HEALTH	INTERIM	1993 - ENERGY & COMMERCE
<p>Interstate &amp; foreign commerce generally</p> <p>Regulation of interstate &amp; foreign transportation, except transportation by water not subject to the jurisdiction of the Interstate Commerce Commission</p> <p>Regulation of interstate &amp; foreign communications</p> <p>Civil aeronautics</p> <p>Weather Bureau</p> <p>Interstate oil compacts; &amp; petroleum &amp; natural gas, except on the public lands</p> <p>Securities &amp; exchanges</p> <p>Regulation of interstate transmission of power, except the installation of connections between Government water power projects</p> <p>Railroad labor &amp; railroad retirement &amp; unemployment, except revenue measures relating thereto</p> <p>Public health &amp; quarantine inland waterways</p> <p>Bureau of Standards, standardization of weights &amp; measures, &amp; the metric system</p>	<p><u>Lost jurisdiction over:</u></p> <p>Bureau of Standards, standardization of weights &amp; measures, &amp; the metric system to then</p> <p>Committee on Science &amp; Aeronautics (7-21-58)</p> <p>Science scholarships to then</p> <p>Committee on Science &amp; Aeronautics (7-21-58)</p>	<p><u>Renamed Committee on Commerce &amp; Health</u></p> <p><u>Added jurisdiction over:</u></p> <p>Biomedical research &amp; development from then</p> <p>Committee on Science &amp; Aeronautics</p> <p>Health &amp; health facilities, except health care supported by payroll deductions from the Committee on Ways &amp; Means</p> <p>Construction of nursing home facilities from then</p> <p>Committee on Banking &amp; Currency</p> <p><u>Lost jurisdiction over:</u></p> <p>Transportation, including civil aviation (except railroads, railroad labor &amp; pensions) to then</p> <p>Committee on Public Works</p> <p>Water transportation subject to the jurisdiction of the Interstate Commerce Commission to then</p> <p>Committee on Public Works</p> <p>Related transportation regulatory agencies, except (A) the Interstate Commerce Commission as it relates to railroads; (B) Federal Railroad Administration; &amp; (C) Amtrak to then</p> <p>Committee on Public Works</p>	<p><u>Renamed Committee on Interstate &amp; Foreign Commerce</u> (1-14-75)</p> <p><u>Renamed Committee on Energy &amp; Commerce</u> (1-3-81)</p> <p><u>Clarified jurisdiction over:</u></p> <p>Nuclear energy [given same jurisdiction it had over non-nuclear energy] from Joint Committee on Atomic Energy (1-4-77)*</p> <p><u>Expanded jurisdiction over energy to include:</u></p> <p>National energy policy generally</p> <p>Measures relating to exploration,</p>	<p>Interstate &amp; foreign commerce generally</p> <p>National energy policy generally</p> <p>Measures relating to the exploration, production, pricing, &amp; regulation of energy resources, including all fossil fuels, solar energy, &amp; other unconventional or renewable energy resources</p> <p>Measures relating to the conservation of energy resources</p> <p>Measures relating to the commercial application of energy technology</p> <p>Measures relating to energy information generally</p> <p>Measures relating to (A) the generation &amp; marketing of power (except by federally chartered or Federal regional power marketing authorities), (B) the reliability &amp; interstate transmission of, &amp; ratemaking for, all power, &amp; (C) the siting of generation facilities; except the installation of interconnections between Government waterpower projects</p> <p>Interstate energy compacts</p> <p>Measures relating to general management of the Department of Energy, &amp; the management &amp; all functions of the Federal Energy Regulatory Commission</p>

## HOUSE COMMITTEE ON ENERGY AND COMMERCE - CONTINUED

1947 - INT. & FOREIGN COMMERCE	INTERIM	1975 - COMMERCE & HEALTH	INTERIM	1993 - ENERGY & COMMERCE
	<p>Civil aviation research &amp; development, &amp; energy &amp; environmental research &amp; development to then Committee on Science &amp; Astronautics</p> <p>The National Weather Service to then Committee on Science &amp; Astronautics</p> <p>Trading with the enemy to Committee on Foreign Affairs</p> <p><u>Clarified jurisdiction over:</u> Railroads Consumer affairs &amp; consumer protection Travel &amp; tourism</p>	<p>Civil aviation research &amp; development, &amp; energy &amp; environmental research &amp; development to then Committee on Science &amp; Astronautics</p> <p>The National Weather Service to then Committee on Science &amp; Astronautics</p> <p>Trading with the enemy to Committee on Foreign Affairs</p> <p><u>Clarified jurisdiction over:</u> Railroads Consumer affairs &amp; consumer protection Travel &amp; tourism</p>	<p>production, storage, supply, marketing, pricing, &amp; regulation of energy resources, including all fossil fuels, solar energy, &amp; other unconventional or renewable energy resources</p> <p>Measures relating to the conservation of energy resources</p> <p>Measures relating to commercial application of energy technology</p> <p>Measures relating to energy information generally</p> <p>Measures relating to (A) the generation &amp; marketing of power (except by federally chartered or Federal regional power marketing authorities), (B) the reliability &amp; interstate transmission of, &amp; ratemaking for, all power, &amp; (C) the siting of generation facilities; except the installation of interconnections between Government waterpower projects</p> <p>interstate energy compacts</p> <p>Measures relating to general management of the Department of Energy, &amp; the management &amp; all functions of the Federal Energy Regulatory Commission</p> <p>(all of the preceding took effect 1-3-81)</p> <p><u>Added special oversight over:</u> Nuclear energy (1-4-77) Other energy besides nuclear energy (1-3-81)</p>	<p>Inland waterways</p> <p>Railroads, including railroad labor, railroad retirement &amp; unemployment, except revenue measures related thereto</p> <p>Regulation of interstate &amp; foreign communications</p> <p>Securities &amp; exchanges</p> <p>Consumer affairs &amp; consumer protection</p> <p>Travel &amp; tourism</p> <p>Public health &amp; quarantine</p> <p>Health &amp; health facilities, except health care supported by payroll deductions</p> <p>Biomedical research &amp; development</p> <p><u>Special oversight:</u> Nuclear &amp; other energy</p>

\*See footnote 1 under Committee on Armed Services

The Committee on Energy &amp; Commerce was established in 1795 as the Committee on Commerce &amp; Manufactures.

## HOUSE COMMITTEE ON FOREIGN AFFAIRS

1947 - FOREIGN AFFAIRS	INTERIM	1975 - FOREIGN AFFAIRS	INTERIM	1993 - FOREIGN AFFAIRS
<p>Relations of the U.S. with foreign nations generally</p> <p>Establishment of boundary lines between the U.S. &amp; foreign nations</p> <p>Protection of American citizens abroad &amp; expatriation</p> <p>Neutrality</p> <p>International conferences &amp; congresses</p> <p>The American National Red Cross</p> <p>Intervention abroad &amp; declarations of war</p> <p>Measures relating to the diplomatic service</p> <p>Acquisition of land &amp; buildings for embassies &amp; legations in foreign countries</p> <p>Measures to foster commercial intercourse with foreign nations &amp; to safeguard American business interests abroad</p> <p>United Nations Organization &amp; International financial &amp; monetary organizations</p> <p>Foreign loans</p>		<p><u>Added jurisdiction over:</u></p> <p>International commodity agreements (other than those involving sugar), &amp; foreign distribution &amp; non-domestic production of commodities from the Committee on Agriculture [the latter shared with the Committee on Agriculture]</p> <p>Trading with the enemy from then Committee on Interstate &amp; Foreign Commerce</p> <p>International education from the Committee on Education &amp; Labor</p> <p>Measures relating to international economic policy from then Committee on Banking &amp; Currency</p> <p>Export controls from then Committee on Banking &amp; Currency &amp; Committee on Ways &amp; Means</p> <p><u>Lost jurisdiction over:</u></p> <p>International financial &amp; monetary organizations to then Committee on Banking &amp; Currency</p> <p>International fishing agreements to the Committee on Merchant Marine &amp; Fisheries</p>	<p><u>Renamed</u></p> <p>Committee on International Relations (3-19-75)</p> <p><u>Renamed</u></p> <p>Committee on Foreign Affairs (2-5-79)</p> <p><u>Added</u></p> <p><u>Jurisdiction over:</u></p> <p>Non-proliferation of nuclear technology &amp; nuclear hardware, &amp; international agreements for cooperation in the export of nuclear technology &amp; nuclear hardware from the Joint Committee on Atomic Energy (1-4-77)*</p>	<p>Relations of the U.S. with foreign nations generally</p> <p>Acquisition of land &amp; buildings for embassies &amp; legations in foreign countries</p> <p>Establishment of boundary lines between the U.S. &amp; foreign nations</p> <p>Foreign loans</p> <p>International conferences &amp; congresses</p> <p>Intervention abroad &amp; declarations of war</p> <p>Measures relating to the diplomatic service</p> <p>Measures to foster commercial intercourse with foreign nations &amp; to safeguard American business interests abroad</p> <p>Neutrality</p> <p>Protection of American citizens abroad &amp; expatriation</p> <p>The American National Red Cross</p> <p>United Nations Organizations</p> <p>Measures relating to international economic policy</p> <p>Export controls, including nonproliferation of nuclear technology &amp; nuclear hardware</p> <p>International commodity agreements (other than those involving sugar), including all agreements for cooperation in the export of nuclear technology &amp; nuclear hardware</p>



## HOUSE COMMITTEE ON FOREIGN AFFAIRS - CONTINUED

1947- FOREIGN AFFAIRS	INTERIM	1975 - FOREIGN AFFAIRS	INTERIM	1993 - FOREIGN AFFAIRS
		Added special oversight: Customs administration, intelligence activities relating to foreign policy, international financial & monetary organizations, & international fishing agreements		Trading with the enemy International education  Special Oversight: Customs administration, intelligence activities relating to foreign policy, international financial & monetary organizations, & international fishing agreements

\*See footnote 1 under Committee on Armed Services

The Committee on Foreign Affairs was established in 1822.

## HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

1947 - EXPENDITURES IN EXECUTIVE DEPARTMENTS	INTERIM	1975 - GOVERNMENT OPERATIONS	INTERIM	1993 - GOVERNMENT OPERATIONS
<p>Budget &amp; accounting measures, other than appropriations</p> <p>Reorganizations in the executive branch of the Government</p> <p>*Receiving &amp; examining reports of the Comptroller General of the US &amp; of submitting such recommendations to the House as its deems necessary or desirable in connection with the subject matters of such reports</p> <p>Studying the operation of Government activities at all levels with a view of determining its economy &amp; efficiency</p> <p>*Evaluating the effects of laws enacted to reorganize the legislative &amp; executive branches of the Government</p> <p>*Studying intergovernmental relationships between the United States &amp; the States &amp; municipalities, &amp; between the United States &amp; international organizations of which the U.S. is a member</p> <p>* Retained through the present, &amp; currently contained in Rule X, Clause 4 (c) under "Additional Functions of Committees"</p>	<p>Renamed Committee on Government Operations (7-3-52)</p>	<p>Added jurisdiction over: General revenue sharing from the Committee on Ways &amp; Means National archives from the Committee on Post Office &amp; Civil Service</p> <p>Clarified jurisdiction over: The overall economy &amp; efficiency of Government operations &amp; activities, including Federal procurement Intergovernmental relationships between the U.S. &amp; the states &amp; municipalities</p>	<p>Added jurisdiction over: Measures providing for off-budget treatment of Federal agencies or programs (added by the Balanced Budget &amp; Emergency Deficit Control Act of 1985, 12-12-85) Measures providing exemption from reduction under any order issued under part C of the Balanced Budget &amp; Emergency Deficit Control Act of 1985</p>	<p>Budget &amp; accounting measures, other than appropriations</p> <p>The overall economy &amp; efficiency of Government operations &amp; activities, including Federal procurement</p> <p>Reorganizations in executive branch of the Government</p> <p>Intergovernmental relationships between the U.S. &amp; the States &amp; municipalities, &amp; general revenue sharing</p> <p>National archives</p> <p>Measures providing for off-budget treatment of Federal agencies or programs</p> <p>Measures providing exemption from reduction under any order issued under part C of the Balanced Budget &amp; Emergency Deficit Control Act of 1985</p>

The Committee on Government Operations was established in 1927 as the Committee on Expenditures in the Executive Departments, which combined 11 separate committees on expenditures. The first of these committees was established in 1816, & others were added as new departments were created.

## HOUSE COMMITTEE ON HOUSE ADMINISTRATION

1947 - HOUSE ADMINISTRATION	INTERIM	1975 - HOUSE ADMINISTRATION	INTERIM	1993 - HOUSE ADMINISTRATION
<p>Employment of persons by the House, including clerks for Members &amp; committees, &amp; reporters of debates</p> <p>Expenditure of the contingent fund of the House</p> <p>The auditing &amp; settling of all accounts which may be charged to the contingent fund</p> <p>Measures relating to accounts of the House generally</p> <p>Appropriations from the contingent fund</p> <p>Measures relating to services to the House, including the House Restaurant &amp; administration of the House Office Buildings &amp; of the House wing of the Capitol</p> <p>Measures relating to the travel of Members of the House</p> <p>Measures relating to the assignment of office space for Members &amp; committees</p> <p>Measures relating to the disposition of useless executive papers</p> <p>[Except for measures relating to the construction or reconstruction, maintenance, &amp; care of the buildings &amp; grounds of the Botanic Gardens, the Library of Congress, &amp; the Smithsonian Institution;] matters relating to the Library of Congress &amp; the</p>	<p>No change</p>	<p><u>Added jurisdiction over:</u></p> <p>Parking facilities from the Select Committee on Parking</p> <p>The House Restaurant, due to the abolition of the Select Committee on the House Restaurant</p> <p><u>Lost jurisdiction over:</u></p> <p>Hatch Act to the Committee on Post Office &amp; Civil Service</p>	<p><u>Added jurisdiction over:</u></p> <p>Measures relating to the raising, reporting, &amp; use of campaign contributions for candidates for office of Representative in the House of Representatives &amp; of Resident Commissioner to the U.S. from Puerto Rico from Committee on Standards of Official Conduct (1-14-75)</p> <p><u>Clarified jurisdiction over:</u></p> <p>Measures relating to the compensation retirement, &amp; other benefits of the Members, officers, &amp;</p>	<p>Appropriations from the contingent fund</p> <p>Auditing &amp; settling of all accounts which may be charged to the contingent fund</p> <p>Employment of persons by the House, including clerks for Members &amp; committees, &amp; reporters of debates</p> <p>[Except for measures relating to the construction or reconstruction, maintenance &amp; care of the buildings &amp; grounds of the Botanic Gardens, the Library of Congress, &amp; the Smithsonian Institution], matters relating to the Library of Congress &amp; the House Library; statutory &amp; pictures; acceptance or purchase of works of art for the Capitol; the Botanic Gardens; management of the library of Congress; purchase of books &amp; manuscripts; erection of monuments to the memory of individuals</p> <p>[Except for measures relating to the construction or reconstruction, maintenance, &amp; care of the buildings &amp; grounds of the Botanic Gardens, the Library of Congress, &amp; the Smithsonian Institution], matters relating to the Smithsonian Institution &amp; the incorporation of similar institutions</p>

## HOUSE COMMITTEE ON HOUSE ADMINISTRATION - CONTINUED

1947 - HOUSE ADMINISTRATION	INTERIM	1975 - HOUSE ADMINISTRATION	INTERIM	1993 - HOUSE ADMINISTRATION
<p>House Library; statuary &amp; pictures; acceptance or purchase of works of art for the Capitol; the Botanic Gardens; management of the Library of Congress; purchase of books &amp; manuscripts; erection of monuments to the memory of individuals [Except for measures relating to the construction or reconstruction, maintenance, &amp; care of the buildings &amp; grounds of the Smithsonian Institution;] matters relating to the Smithsonian Institution &amp; incorporation of similar institutions</p> <p>Matters relating to the printing &amp; correction of the Congressional Record</p> <p>Measures relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections, credentials &amp; qualifications; &amp; Federal elections generally</p> <p>'Examining all bills, amendments, &amp; joint resolutions after passage by the House; &amp; in cooperation with the Senate Committee on Rules &amp; Administration, of examining all bills &amp; joint resolutions which shall have passed both Houses, to see that they are correctly enrolled; &amp; when signed by the Speaker of the House &amp; the President of the Senate, shall forthwith present the same, when they shall have originated in the House, to the President of the U.S. in person, &amp; report the fact &amp; date of such presentation to the House</p>			<p>employees of the Congress [now shared with the Committee on Post Office &amp; Civil Service] (1-14-75)</p>	<p>Expenditure of contingent fund of the House</p> <p>Matters relating to printing &amp; correction of the Congressional Record</p> <p>Measures relating to accounts of the House generally</p> <p>Measure relating to assignment of office space for Members &amp; committees</p> <p>Measures relating to the disposition of useless executive papers</p> <p>Measures relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; credentials &amp; qualifications; &amp; Federal elections generally</p> <p>Measures relating to services to the House, including The House Restaurant, parking facilities &amp; administration of the House Office Buildings &amp; of the House wing of the Capitol</p> <p>Measures relating to the travel of Members of the House</p> <p>Measures relating to the raising, reporting &amp; use of campaign contributions for candidates for office of Representative in the House of Representatives &amp; of Resident Commissioner to the U.S. from Puerto Rico</p> <p>Measures relating to the compensation, retirement, &amp; other benefits of the Members, officers, &amp; employees of the Congress</p>



## HOUSE COMMITTEE ON HOUSE ADMINISTRATION - CONTINUED

1947 - HOUSE ADMINISTRATION	INTERIM	1975 - HOUSE ADMINISTRATION	INTERIM	1993 - HOUSE ADMINISTRATION
<p>'Reporting to the Sergeant at Arms of the House the travel of Members of the House</p> <p>'Arranging a suitable program for each day observed by the House of Representatives as a memorial day in memory of Member of the Senate &amp; House of Representatives who have died during the preceding period, &amp; to arrange for the publication of the proceedings thereof</p> <p>'The first two items have been retained through the present, &amp; are currently contained in Rule X, clause 4 (d) under "Additional Functions of Committees".</p> <p>Arranging a program for a memorial day for the death of a Member was eliminated from the rules effective 1-3-75. Another additional function was added effective 1-3-75 when the committee was required to provide a scheduling service through the House Information Systems.</p>				

The Committee on House Administration was established in 1947 by the Legislative Reorganization Act of 1946. It combined the Committee on Accounts (created 1803), Committee on Enrolled Bills (created 1789), Committee on Disposition of Executive Papers (created 1889), Committee on Election of the President, Vice President, & Representatives in Congress (created 1893), Committee on Printing (created 1846), three Committees on Elections, (Nos. 1, 2, & 3) (created in 1895), & the Committee on Memorials (created 1929).

## HOUSE COMMITTEE ON THE JUDICIARY

1947 - JUDICIARY	INTERIM	1975 - JUDICIARY	INTERIM	1993 - JUDICIARY
<p>Judicial proceedings, civil &amp; criminal, generally</p> <p>Constitutional amendments</p> <p>Federal courts &amp; judges</p> <p>Local courts in the Territories &amp; possessions</p> <p>Revision &amp; codification of the statutes of the U.S.</p> <p>National penitentiaries</p> <p>Protection of trade &amp; commerce against unlawful restraints &amp; monopolies</p> <p>Holidays &amp; celebrations</p> <p>Bankruptcy, mutiny, espionage, &amp; counterfeiting</p> <p>State &amp; Territorial boundary lines</p> <p>Meetings of Congress, attendance of Members, &amp; their acceptance of incompatible offices</p> <p>Civil liberties</p> <p>Patents, copyrights, &amp; trademarks</p> <p>Patent Office</p> <p>Immigration &amp; naturalization</p> <p>Apportionment of Representatives</p> <p>Measures relating to claims against the U.S.</p> <p>Interstate compacts generally</p> <p>Presidential succession</p>	<p>No change</p>	<p><u>Lost jurisdiction over:</u></p> <p>Holidays &amp; celebrations to Committee on Post Office &amp; Civil Service</p>	<p><u>Added jurisdiction over:</u></p> <p>Communist &amp; other subversive activities affecting the internal security of the U.S., upon the abolition of the Committee on Internal Security (1-14-75)</p>	<p>Judicial proceedings, civil &amp; criminal generally</p> <p>Apportionment of Representatives</p> <p>Bankruptcy, mutiny, espionage, &amp; counterfeiting</p> <p>Civil liberties</p> <p>Constitutional amendments</p> <p>Federal courts &amp; judges</p> <p>Immigration &amp; naturalization</p> <p>Interstate compacts generally</p> <p>Local courts in the Territories &amp; possessions</p> <p>Measures relating to claims against the U.S.</p> <p>Meetings of Congress, attendance of Members &amp; their acceptance of incompatible offices</p> <p>National penitentiaries</p> <p>Patent Office</p> <p>Patents, copyrights, &amp; trademarks</p> <p>Presidential succession</p> <p>Protection of trade &amp; commerce against unlawful restraints &amp; monopolies</p> <p>Revision &amp; codification of the Statutes of the U.S.</p> <p>State &amp; territorial boundary lines</p> <p>Communist &amp; other subversive activities affecting the internal security of the U.S.</p>

The Committee on the Judiciary was established in 1813. The Legislative Reorganization Act of 1946 combined the Committee on Revisions of Laws (created 1868), Committee on Patents (created 1837), Committee on Immigration & Naturalization (created 1893), Committee on Claims (created 1794), & the Committee on War Claims (created 1883).

## HOUSE COMMITTEE ON THE JUDICIARY (Absorbed Jurisdiction of Committee on Un-American Activities)

1947 - UN-AMERICAN ACTIVITIES	INTERIM	1975 - INTERNAL SECURITY	INTERIM	1993 - JUDICIARY
<p>Un-American activities This committee, as a whole or by subcommittee, is authorized to make from time to time investigations of:</p> <p>The extent, character, &amp; objects of un-American propaganda activities in the U.S.</p> <p>The diffusion within the U.S. of subversive &amp; un-American propaganda that is instigated from foreign countries or of a domestic origin &amp; attacks the principle of the form of government as guaranteed by our Constitution, &amp; thereto that would aid Congress in any necessary remedial legislation</p>	<p><u>Renamed</u> Committee on Internal Security (2-18-69)</p>	<p>No change</p>	<p>Committee merged with the Committee on the Judiciary (3-14-75)</p>	<p>For the jurisdiction of the Committee on the Judiciary, see preceding page</p>

## HOUSE COMMITTEE ON MERCHANT MARINE &amp; FISHERIES

1947 - MERCHANT MARINE & FISHERIES	INTERIM	1975 - MERCHANT MARINE & FISHERIES	INTERIM	1993 - MERCHANT MARINE & FISHERIES
<p>Merchant marine generally Registering &amp; licensing of vessels &amp; small boats Navigation &amp; the laws relating thereto, including pilotage Rules &amp; international arrangements to prevent collisions at sea Merchant marine officers &amp; seamen</p> <p>Measures relating to the regulation of common carriers by water (except matters subject to the jurisdiction of the interstate Commerce Commission) &amp; to the inspection of merchant marine vessels, lights &amp; signals, lifesaving equipment, &amp; fire protection on such vessels</p> <p>The Coast Guard, including lifesaving service, lighthouses, lightships, &amp; ocean derelicts U.S. Coast Guard &amp; Merchant Marine Academies Coast &amp; Geodetic Survey The Panama Canal &amp; the maintenance &amp; operation of the Panama Canal, including the administration, sanitation, &amp; government of the Canal Zone; &amp; interoceanic canals generally Fishes &amp; wildlife, including research, restoration, refuges, &amp; conservation</p>	No change	<p>Added jurisdiction over: International fishing agree- ments from Committee on Foreign Affairs</p> <p>Lost jurisdiction over: Energy &amp; environmental R&amp;D to then Committee on Science &amp; Astronautics</p> <p>Clarified jurisdiction over: Oceanography &amp; marine affairs, including coastal zone management Marine Academies, &amp; State Maritime Academies</p>	No change	<p>Merchant marine generally Oceanography &amp; Marine Affairs, including coastal zone management Coast Guard, including lifesaving service, lighthouses, lightships, &amp; ocean derelicts Fishes &amp; wildlife, including research, restoration, refuges, &amp; conservation</p> <p>Measures relating to the regulation of common carriers by water (except matters subject to the jurisdiction of the interstate Commerce Commission) &amp; to the inspection of merchant marine vessels, lights &amp; signals, lifesaving equipment, &amp; fire protection on such vessels Merchant marine officers &amp; seamen</p> <p>Navigation &amp; the laws relating thereto, including pilotage Panama Canal &amp; the maintenance &amp; operation of the Panama Canal, including the administration, sanitation, &amp; government of the Canal Zone, &amp; interoceanic canals generally Registering &amp; licensing of vessels &amp; small boats</p> <p>Rules &amp; international arrangements to prevent collisions at sea U.S. Coast Guard &amp; Merchant Marine Academies, &amp; State Maritime Academies International fishing agreements</p>

The Committee on Merchant Marine &amp; Fisheries was established in 1857.



## HOUSE COMMITTEE ON NATURAL RESOURCES

1947 - PUBLIC LANDS	INTERIM	1975 - INTERIOR & INSULAR AFFAIRS	INTERIM	1993 - NATURAL RESOURCES
<p>Public lands generally, including entry, easements, &amp; grazing thereon</p> <p>Mineral resources of the public lands</p> <p>Forfeiture of land grants &amp; alien ownership, including alien ownership of mineral lands</p> <p>Forest reserves &amp; national parks created from the public domain</p> <p>Military parks &amp; battlefields, &amp; national cemeteries</p> <p>Preservation of prehistoric ruins &amp; objects of interest on the public domain</p> <p>Measures relating generally to Hawaii, Alaska, &amp; the insular possessions of the U.S., except those affecting the revenue &amp; appropriations</p> <p>Irrigation &amp; reclamation, including water supply for reclamation projects &amp; easements of public lands for irrigation projects, &amp; acquisition of private lands when necessary to complete irrigation projects</p> <p>Interstate compacts relating to apportionment of water for irrigation purposes</p> <p>Mining interests generally</p> <p>Mineral land laws &amp; claims &amp; entries thereunder</p> <p>Geological survey</p> <p>Mining schools &amp; experimental stations</p> <p>Petroleum conservation on the public lands &amp; conservation of the radium supply in the U.S.</p>	<p><u>Renamed</u> Committee on Interior &amp; Insular Affairs (2-2-51)</p> <p><u>Lost</u> <u>Jurisdiction over:</u> Cemeteries of the U.S. in which veterans of any war or conflict are or may be buried, whether in the U.S. or abroad, except cemeteries administered by the Secretary of the Interior to the Committee on Veterans' Affairs (10-20-67)</p>	<p><u>Added</u> <u>Jurisdiction over:</u> Parks within the District of Columbia from then Committee on Public Works</p> <p><u>Lost</u> <u>Jurisdiction over:</u> Education of Indians to Committee on Education &amp; Labor</p> <p>Energy &amp; environmental R&amp;D to then Committee on Science &amp; Technology</p> <p>Population &amp; demography to Committee on Post Office &amp; Civil Service</p> <p><u>Clarified</u> <u>Jurisdiction over:</u> Measures relating to Hawaii &amp; Alaska specifically [because they had already become states]</p> <p><u>Added</u> <u>special oversight over:</u> All programs affecting Indians, &amp; non-military nuclear energy &amp; research &amp; development including the disposal of nuclear waste</p>	<p><u>Renamed</u> Committee on Natural Resources (1-5-93)</p> <p><u>Added</u> <u>Jurisdiction over:</u> Regulation of the domestic nuclear energy industry, including regulation of research &amp; development reactors &amp; nuclear regulatory research from the Joint Committee on Atomic Energy (1-4-77)*</p>	<p>Forest reserves &amp; national parks created from the public domain</p> <p>Forfeiture of land grants &amp; alien ownership, including alien ownership of mineral lands.</p> <p>Geological Survey</p> <p>Interstate compacts relating to apportionment of waters for irrigation purposes</p> <p>Irrigation &amp; reclamation, including water supply for reclamation projects, &amp; easements of public lands for irrigation projects, &amp; acquisition of private lands when necessary to complete irrigation projects</p> <p>Measures relating to the care &amp; management of Indians, including the care &amp; allotment of Indian lands &amp; general &amp; special measures relating to claims which are paid out of Indian funds</p> <p>Measures relating generally to the insular possessions of the U.S., except those affecting the revenue &amp; appropriations</p> <p>Military parks &amp; battlefields; national cemeteries administered by the Secretary of the Interior, &amp; parks within the District of Columbia</p> <p>Mineral land laws &amp; claims &amp; entries thereunder</p> <p>Mineral resources of the public lands</p> <p>Mining interests generally</p> <p>Mining schools &amp; experimental stations</p> <p>Petroleum conservation on the</p>

## HOUSE COMMITTEE ON NATURAL RESOURCES - CONTINUED

1947 - PUBLIC LANDS	INTERIM	1975 - INTERIOR & INSULAR AFFAIRS	INTERIM	1993 - NATURAL RESOURCES
<p>Relations of the U.S. with the Indians &amp; the Indian tribes</p> <p>Measures relating to the care, education, &amp; management of Indians, including the care of allotment of Indian lands &amp; general &amp; special measures relating to claims which are paid out of Indian funds</p>				<p>public lands &amp; conservation of the radium supply in the U.S.</p> <p>Preservation of prehistoric ruins &amp; objects of interest on the public domain</p> <p>Public lands, generally, including entry, easements, &amp; grazing thereon</p> <p>Relations of the U.S. with the Indians &amp; the Indian tribes</p> <p>Regulation of the domestic nuclear energy industry, including regulation of research &amp; development reactors &amp; nuclear regulatory research</p> <p>Special Oversight: Indians &amp; nonmilitary nuclear energy &amp; research &amp; development including the disposal of nuclear waste</p>

\*See footnote 1 under Committee on Armed Services

The Committee on Natural Resources was established in 1805 as the Committee on Public Lands. The Legislative Reorganization Act of 1946 combined the Committee on Mines & Mining (created 1865), Committee on Insular Affairs (created 1898), Committee on Irrigation & Reclamation (created 1893), Committee on Indian Affairs (created 1821), & the Committee on Territories (created 1825).

## HOUSE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

1947 - POST OFFICE & CIVIL SERVICE	INTERIM	1975 - POST OFFICE & CIVIL SERVICE	INTERIM	1993 - POST OFFICE & CIVIL SERVICE
<p>The Federal civil service generally</p> <p>The status of officers &amp; employees of the United States including their compensation, classification, &amp; retirement.</p> <p>The postal service generally, including the railway mail service, &amp; measures relating to ocean mail &amp; pneumatic-tube service; but excluding post roads</p> <p>Postal-savings banks</p> <p>Census &amp; the collection of statistics generally</p> <p>The National Archives</p>	No change	<p><u>Added jurisdiction over:</u></p> <p>All Federal Service, including intergovernmental personnel, from the Committee on Education &amp; Labor</p> <p>Hatch Act from the Committee on House Administration</p> <p>Holidays &amp; celebrations from the Committee on the Judiciary</p> <p>Population &amp; demography from then Committee on Interior &amp; Insular Affairs</p> <p><u>Lost jurisdiction over:</u></p> <p>National archives to the Committee on Government Operations</p>	No change	<p>Census &amp; collection of statistics generally</p> <p>All Federal Civil Service, including intergovernmental personnel</p> <p>Postal-savings banks</p> <p>Postal service generally, including the railway mail service, &amp; measures relating to ocean mail &amp; pneumatic-tube service; but excluding post roads</p> <p>Status of officers &amp; employees of the U.S., including their compensation, classification, &amp; retirement</p> <p>Hatch Act</p> <p>Holidays &amp; celebrations</p> <p>Population &amp; demography</p>

The Committee on Post Office & Civil Service was established in 1947 by the Legislative Reorganization Act of 1946. It combined the Committee on Post Office & Post Roads (created 1808), Committee on Civil Service (created 1924), & the Committee on the Census (created 1901).

## HOUSE COMMITTEE ON PUBLIC WORKS &amp; TRANSPORTATION

1947 - PUBLIC WORKS	INTERIM	1975 - PUBLIC WORKS & TRANSPORTATION	INTERIM	1993 - PUBLIC WORKS & TRANSPORTATION
<p>Flood control &amp; improvement of rivers &amp; harbors</p> <p>Public works for the benefit of navigation, including bridges &amp; dams (other than international bridges &amp; dams)</p> <p>Water power</p> <p>Oil &amp; other pollution of navigable waters</p> <p>Public buildings &amp; occupied or improved grounds of the U.S. generally</p> <p>Measures relating to the purchase of sites &amp; construction of post offices, customhouses, Federal courthouses, &amp; Government Buildings within the District of Columbia</p> <p>Measures relating to the Capitol Building &amp; the Senate &amp; House Office Buildings</p> <p>Measures relating to the construction or reconstruction, maintenance, &amp; care of the buildings &amp; grounds of the Botanic Gardens, the Library of Congress, &amp; the Smithsonian Institution</p> <p>Public reservations &amp; parks within the District of Columbia, including Rock Creek Park &amp; the Zoological Park</p> <p>Measures relating to the construction or maintenance of roads &amp; post roads, other than appropriations therefor; but it shall not be in order for any bill providing general legislation in relation to roads to contain any provision for any specific road,</p>	No change	<p>Renamed Committee on Public Works &amp; Transportation</p> <p><u>Added jurisdiction over:</u> Transportation, including civil aviation, except railroads, railroad labor &amp; pensions, from then Committee on Interstate &amp; Foreign Commerce</p> <p>Water transportation subject to the jurisdiction of the Interstate Commerce Commission from then Committee on Interstate &amp; Foreign Commerce</p> <p><u>Related transportation regulatory agencies, except (A) the Interstate Commerce Commission as it relates to railroads; (B) Federal Railroad Administration; and (C) Amtrak from then Committee on Interstate &amp; Foreign Commerce</u></p> <p>Urban mass transportation from then Committee on Banking &amp; Currency</p> <p><u>Lost jurisdiction over:</u> Public reservations &amp; parks within the District of Columbia to then Committee on Interior &amp; Insular Affairs</p> <p>Energy &amp; environmental R&amp;D to then Committee on Science &amp; Astronautics</p>	No change	<p>Flood control &amp; improvement of rivers &amp; harbors</p> <p>Measures relating to the Capitol Building &amp; the Senate &amp; House Office Buildings</p> <p>Measures relating to the construction or maintenance of roads &amp; post roads, other than appropriations therefor; but it shall not be in order for any bill providing general legislation in relation to roads to contain any provision for any specific road, nor for any bill in relation to a specific road to embrace a provision in relation to any other specific road.</p> <p>Measures relating to the construction or reconstruction, maintenance, &amp; care of the buildings &amp; grounds of the Botanic Gardens, the Library of Congress, &amp; the Smithsonian Institution</p> <p>Measures relating to the purchase of sites &amp; construction of post offices, customhouses, Federal Courthouses, &amp; Government buildings within the District of Columbia</p> <p>Oil &amp; other pollution of navigable waters</p> <p>Public buildings &amp; occupied or improved grounds of the U.S. generally</p> <p>Public works for the benefit of navigation, including bridges &amp; dams (other than international</p>



## HOUSE COMMITTEE ON PUBLIC WORKS &amp; TRANSPORTATION - CONTINUED

1947 - PUBLIC WORKS	INTERIM	1975 - PUBLIC WORKS & TRANSPORTATION	INTERIM	1993 - PUBLIC WORKS & TRANSPORTATION
nor for any bill in relation to a specific road to embrace a provision in relation to any other specific road		Clarified jurisdiction over: Roads & safety thereof		bridges & dams) Water power Transportation, including civil aviation except railroads, railroad labor & pensions Roads & the safety thereof Water transportation subject to the jurisdiction of the Interstate Commerce Commission Related transportation regulatory agencies, except (A) the Interstate Commerce Commission as it relates to railroads; (B) Federal Railroad Administration; & (C) Amtrak

The Committee on Public Works & Transportation was established as the Committee on Public Works in 1947 by the Legislative Reorganization Act of 1946. It combined the Committee on Flood Control (created 1916), Committee on Public Buildings & Grounds (created 1837), Committee on Rivers & Harbors (created 1883), & the Committee on Roads (created 1913).

## HOUSE COMMITTEE ON RULES

1947 - RULES	INTERIM	1975 - RULES	INTERIM	1993 - RULES
<p>The rules, joint rules &amp; order of business of the House</p> <p>Recesses &amp; final adjournments of Congress</p> <p>The Committee on Rules is authorized to sit &amp; act whether or not the House is in session [contained in separate section of the Legislative Reorganization Act of 1946]</p>	<p><u>Lost jurisdiction over:</u></p> <p>Rules &amp; joint rules relating to the Code of Official Conduct or financial disclosure by a Member, officer, or employee of the House to the Committee on Standards of Official Conduct (4-3-68)</p>	<p><u>Added jurisdiction over:</u></p> <p>Emergency waivers under the Congressional Budget Act of 1974 of the required reporting date for bills &amp; resolutions authorizing new budget authority by the Congressional Budget Act of 1974 (1-3-75)</p> <p><u>Lost jurisdiction over:</u></p> <p>Committee investigative authority resolutions [Blanket permission accorded all committees by change in House Rules]</p>	<p><u>Added jurisdiction over:</u></p> <p>Rules &amp; joint rules relating to financial disclosure by a Member, officer, or employee of the House from the Committee on Standards of Official Conduct (1-4-77)</p> <p><u>Lost jurisdiction over:</u></p> <p>Emergency waivers of the required reporting date for bills &amp; resolutions authorizing new budget authority (1-3-91) [repeated as obsolete]</p> <p><u>Added special oversight over:</u></p> <p>The Congressional budget process (12-12-85)</p>	<p>The rules &amp; joint rules (other than rules or joint rules relating to the Code of Official Conduct), &amp; order of business of the House</p> <p>Recesses &amp; final adjournments of Congress</p> <p>The Committee on Rules is authorized to sit &amp; act whether or not the House is in session</p> <p><u>Special oversight:</u></p> <p>The Congressional budget process</p>

The Committee on Rules was established in 1880, & was preceded by the Select Committee on Rules (created 1789).

## HOUSE COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

1947	INTERIM	1975 - COMMITTEE ON SCIENCE & TECHNOLOGY	INTERIM	1983 - SCIENCE, SPACE, & TECHNOLOGY
<p>The Committee on Science, Space, &amp; Technology did not exist</p>	<p>Committee on Science &amp; Astronautics was created (7-21-58)</p> <p><u>Upon creation, given jurisdiction over:</u></p> <p>Astronautical research &amp; development, including resources, personnel, equipment, &amp; facilities</p> <p>Bureau of Standards, standardization of weights &amp; measures, &amp; the metric system from then</p> <p>Committee on Interstate &amp; Foreign Commerce</p> <p>National Aeronautics &amp; Space Administration</p> <p>National Aeronautics &amp; Space Council</p> <p>National Science Foundation</p> <p>Outer space, including exploration &amp; control thereof</p> <p>Science Scholarships from then</p> <p>Committee on Interstate &amp; Foreign Commerce</p> <p>Scientific research &amp; development</p>	<p><u>Renamed</u> Committee on Science &amp; Technology</p> <p><u>Added jurisdiction over:</u></p> <p>Civil aviation R&amp;D from then</p> <p>Committee on Interstate &amp; Foreign Commerce</p> <p>Environmental research &amp; development from then</p> <p>Committees on Interstate &amp; Foreign Commerce, Interior &amp; Insular Affairs, &amp; Public Works, &amp; Committee on Merchant Marine &amp; Fisheries</p> <p>Energy research &amp; development, except non-military nuclear, from then</p> <p>Committees on Interstate &amp; Foreign Commerce, Interior &amp; Insular Affairs, Public Works, &amp; Joint Atomic Energy, &amp; Committee on Merchant Marine &amp; Fisheries</p> <p>The National Weather Service from then</p> <p>Committee on Interstate &amp; Foreign Commerce</p>	<p><u>Renamed</u> Committee on Science, Space, &amp; Technology (1-6-87)</p> <p><u>Added jurisdiction over:</u></p> <p>Nuclear research &amp; development from Joint Atomic Energy, (1-4-77)*</p> <p><u>Clarified jurisdiction over:</u></p> <p>All energy research, development, &amp; demonstration, &amp; projects thereof, &amp; all federally owned or operated nonmilitary energy laboratories</p> <p>National Weather Service</p> <p>therefor, &amp; all federally owned or operated nonmilitary energy laboratories (1-3-81)</p>	<p>Astronautical research &amp; development, including resources, personnel, equipment, &amp; facilities</p> <p>Bureau of Standards, standardization of weights &amp; measures &amp; the metric system</p> <p>National Aeronautics &amp; Space Administration</p> <p>National Aeronautics &amp; Space Council</p> <p>National Science Foundation</p> <p>Outer space, including exploration &amp; control thereof</p> <p>Science Scholarships</p> <p>Scientific research, development, &amp; demonstration, &amp; projects thereof</p> <p>Civil aviation research &amp; development</p> <p>Environmental research &amp; development</p> <p>All energy research, development, &amp; demonstration, &amp; projects thereof, &amp; all federally owned or operated nonmilitary energy laboratories</p> <p>National Weather Service</p> <p>Special oversight: Nonmilitary research &amp; development</p>

\*See footnote 1 under Committee on Armed Services

The Committee on Science, Space, & Technology was established in 1958 as the Committee on Science & Astronautics and was preceded by the Select Committee on Astronautics & Space Exploration (created 1958).

## HOUSE COMMITTEE ON SMALL BUSINESS

1947	INTERIM	1975 - SMALL BUSINESS	INTERIM	1993 - SMALL BUSINESS
The Committee on Small Business did not exist	The Committee on Small Business did not exist	<p>The Committee on Small Business was created as a standing committee</p> <p><u>Upon creation, given jurisdiction over:</u></p> <p>Assistance to &amp; protection of small business, including financial aid from then Committee on Banking &amp; Currency</p> <p>Participation of small business enterprises in Federal procurement &amp; Government contracts from then Committee on Banking &amp; Currency</p> <p><u>Added special oversight over:</u></p> <p>Problems of small business</p>	No change	<p>Assistance to &amp; protection of small business, including financial aid</p> <p>Participation of small-business enterprises in Federal procurement &amp; Government contracts</p> <p><u>Special oversight:</u></p> <p>Problems of small business</p>

The Committee on Small Business was established in 1975, & was preceded by the Select Committee on Small Business (created 1941), which had become a permanent select committee in 1971.



## HOUSE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

1947	INTERIM	1975 - STDS. OF OFFICIAL CONDUCT	INTERIM	1983 - STANDARDS OF OFFICIAL CONDUCT
<p>The Committee on Standards of Official Conduct did not exist</p>	<p>Committee was created on 4-13-67 &amp; its jurisdiction redefined on 4-3-68</p> <p><u>Upon creation, given jurisdiction over:</u> Measures relating to the Code of Official Conduct from the Committee on Rules</p> <p>Measures relating to financial disclosure by Members, officers, &amp; employees of the House of Representatives from the Committee on Rules</p> <p><u>Added jurisdiction over:</u> Measures relating to activities designed to assist in defeating, passing, or amending any legislation by the House or (2) influence, directly or indirectly, the passage or defeat of any legislation by the House (7-8-70)</p>	<p>No change</p>	<p><u>Lost jurisdiction over:</u> Measures relating to the raising, reporting, &amp; use of campaign contributions for candidates for the office of Representative in the House of Representatives &amp; of Resident Commissioner to the U.S. from Puerto Rico to the Committee on House Administration (1-14-75)</p> <p>Measures relating to activities designed to (1) assist in defeating, passing, or amending any legislation by the House or (2) influence, directly or indirectly, the passage of defeat of any legislation by the House [now consolidated with the Committee on the Judiciary] (1-4-77)</p> <p>Measures relating to financial disclosure by Members, officers &amp;</p>	<p>Measures relating to the Code of Official Conduct</p>

## HOUSE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT - CONTINUED

1947	INTERIM	1975 - STANDARDS OF OFFICIAL CONDUCT	INTERIM	1993 - STANDARDS OF OFFICIAL CONDUCT
	Measures relating to the raising, reporting, & use of campaign contributions for candidates for the office of Representative in the House of Representatives & of Resident Commissioner to the U.S. from Puerto Rico (7-8-70)		employees of the House of Representatives to the Committee on Rules (1-4-77)	

The Committee on Standards of Official Conduct was established in 1967, & was preceded by the Select Committee on Standards & Conduct (created 1966).

## HOUSE COMMITTEE ON VETERANS' AFFAIRS

1947 - VETERANS' AFFAIRS	INTERIM	1975 - VETERANS' AFFAIRS	INTERIM	1993 - VETERANS' AFFAIRS
<p>Veterans' measures generally</p> <p>Pensions of all the wars of the U.S., general &amp; special</p> <p>Life insurance issued by the Government on account of service in the armed forces</p> <p>Compensation, vocational rehabilitation, &amp; education of veterans</p> <p>Veterans' hospitals, medical care, &amp; treatment of veterans</p> <p>Soldiers' &amp; sailors' civil relief</p> <p>Readjustment of servicemen to civil life</p>	<p><u>Added</u></p> <p><u>jurisdiction</u></p> <p><u>over:</u></p> <p>Cemeteries of the U.S. in which veterans of any war or conflict are or may be buried, whether in the U.S. or abroad, except cemeteries administered by the Secretary of the Interior</p> <p>Committee on Interior &amp; Insular Affairs (10-20-67)</p>	No change	No change	<p>Veteran's measures generally</p> <p>Cemeteries of the U.S. in which veterans of any war or conflict are or may be buried, whether in the U.S. or abroad, except cemeteries administered by the Secretary of the Interior</p> <p>Compensation, vocational rehabilitation, &amp; education of veterans</p> <p>Life insurance issued by the Government on account of service in the Armed Forces</p> <p>Pensions of all the wars of the U.S., general &amp; special</p> <p>Readjustment of servicemen to civil life</p> <p>Soldiers' &amp; sailors' civil relief</p> <p>Veteran's hospitals, medical care, &amp; treatment of veterans</p>

The Committee on Veterans' Affairs was established in 1947 by the Legislative Reorganization Act of 1946. It combined the Committee on Pensions (created 1825 as the Committee on Revolutionary Pensions), Committee on Invalid Pensions (created 1831), & the Committee on World War Veterans' Legislation (created 1924).

## HOUSE COMMITTEE ON WAYS &amp; MEANS

1947 - WAYS & MEANS	INTERIM	1975 - WAYS & MEANS	INTERIM	1993 - WAYS & MEANS
Revenue measures generally The bonded debt of the U.S. Customs, collection districts, & ports of entry & delivery Reciprocal trade agreements Transportation of dutiable goods Revenue measures relating to the insular possessions National Social Security	No change	<u>Lost jurisdiction over:</u> Health care & facilities programs that are supported from general revenues to then Committee on Interstate & Foreign Commerce Work incentive programs to Committee on Education & Labor General revenue sharing to Committee on Government Operations Renegotiation to then Committee on Banking & Currency Export controls to Committee on Foreign Affairs  <u>Added jurisdiction over:</u> Tax exempt foundations & charitable trusts from then Committee on Banking & Currency	<u>Clarified jurisdiction over:</u> The bonded debt of the U.S. by requiring the Committee to include a specific recommendation as to the appropriate level of the public debt in its views & estimates submitted to the Committee on the Budget [as contained in clause 4 (g)] (9-29-79)	Customs, collection districts, & ports of entry & delivery Reciprocal trade agreements Revenue measures generally Revenue measures relating to the insular possessions The bonded debt of the U.S. [Subject to the last sentence of clause 4(g) of Rule X] The deposit of public moneys Transportation of dutiable goods Tax exempt foundations & charitable trusts Natl. social security, except (A) health care & facilities programs that are supported from general revenues as opposed to payroll deductions & (B) work incentive programs

The Committee on Ways & Means was established in 1802, & was preceded by the Select Committee on Ways & Means (created 1789).



SENATE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

TABLE 2

1947 - AGRICULTURE & FORESTRY	INTERIM	1977 - AGRICULTURE, NUTRITION, & FORESTRY	INTERIM	1993 - AGRICULTURE, NUTRITION, & FORESTRY
<p>Agriculture generally</p> <p>Inspection of livestock &amp; meat products</p> <p>Animal industry &amp; diseases of animals</p> <p>Adulteration of seeds, insect pests, &amp; protection of birds &amp; animals in forest reserves</p> <p>Agricultural colleges &amp; experiment stations</p> <p>Forestry in general, &amp; forest reserves other than those created from the public domain</p> <p>Agricultural econs. &amp; research</p> <p>Agricultural &amp; industrial chemistry</p> <p>Dairy industry</p> <p>Entomology &amp; plant quarantine</p> <p>Human nutrition &amp; home econs.</p> <p>Plant industry, soils, &amp; agricultural engineering</p> <p>Agricultural educational extension services</p> <p>Extension of farm credit &amp; farm security</p> <p>Rural electrification</p> <p>Agricultural production &amp; marketing &amp; stabilization of prices of agricultural products</p> <p>Crop insurance &amp; soil conservation</p>	<p>Did not change</p>	<p><u>Renamed Committee on Agriculture, Nutrition, &amp; Forestry</u></p> <p><u>Added jurisdiction over:</u></p> <p>School nutrition programs from then Committee on Labor &amp; Public Welfare</p> <p><u>Added comprehensive policy oversight over:</u></p> <p>Food, nutrition, &amp; hunger, both in the U.S. &amp; in foreign countries, &amp; rural affairs</p> <p><u>Lost jurisdiction over:</u></p> <p>Agricultural colleges to then Committee on Labor &amp; Public Welfare</p> <p><u>Clarified jurisdiction over:</u></p> <p>Food from fresh waters</p> <p>Food stamp programs</p> <p>Agriculture &amp; agricultural commodities</p> <p>Inspection of livestock, meat, &amp; agricultural products</p> <p>Pests &amp; pesticides</p> <p>Agricultural extension services &amp; experiment stations</p> <p>Forestry, &amp; forest reserves &amp; wilderness areas other than those created from the public domain</p> <p>Farm credit &amp; farm security</p> <p>Rural development, rural electrification, &amp; watersheds</p> <p>Agricultural production, marketing, &amp; stabilization of prices</p>	<p><u>Added jurisdiction over:</u></p> <p>All nutrition &amp; human needs issues from Select Committee on Nutrition &amp; Human Needs - effective 12/31/77, as recommended by Stevenson Committee</p>	<p>Agricultural econs. &amp; research</p> <p>Agricultural extension services &amp; experiment stations</p> <p>Agricultural production, marketing, &amp; stabilization of prices</p> <p>Agriculture &amp; agricultural commodities</p> <p>Animal Industry &amp; diseases</p> <p>Crop insurance &amp; soil conservation</p> <p>Farm credit &amp; farm security</p> <p>Food from fresh waters</p> <p>Food stamp programs</p> <p>Forestry, &amp; forest reserves &amp; wilderness areas other than those created from the public domain</p> <p>Home econs.</p> <p>Human nutrition</p> <p>Inspection of livestock, meat, &amp; agricultural products</p> <p>Pests &amp; pesticides</p> <p>Plant industry, soils, &amp; agricultural engineering</p> <p>Rural development, rural electrification, &amp; watersheds</p> <p>School nutrition programs</p> <p><u>Comprehensive policy oversight:</u></p> <p>Food, nutrition, &amp; hunger, both in the U.S. &amp; in foreign countries, &amp; rural affairs</p>

## SENATE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY - CONTINUED

1947 - AGRICULTURE & FORESTRY	INTERIM	1977 - AGRICULTURE, NUTRITION, & FORESTRY	INTERIM	1993 - AGRICULTURE, NUTRITION, & FORESTRY
		Deleted explicit language on: Adulteration of seeds, & protection of birds & animals in forest reserves Agricultural & industrial chemistry Dairy industry Entomology & plant quarantine		

The Committee on Agriculture was established in 1825. It was abolished in 1857, and reestablished in 1863. The committee was renamed the Committee on Agriculture & Forestry in 1884.

## SENATE COMMITTEE ON APPROPRIATIONS

1947 - APPROPs.	INTERIM	1977 - APPROPRIATIONS	INTERIM	1993 - APPROPRIATIONS
<p>Approp. of the revenue for the support of the Govt. of the Govt.</p>	<p><u>Added jurisdiction over:</u></p> <p><sup>1</sup>Except as provided in subparagraph (r) [Committee on the Budget], approp. of the revenue for the support of the Govt.</p> <p><sup>1</sup>Rescission of approps. contained in approp. Acts (referred to in section 105 of title 1, U.S. Code)</p> <p><sup>1</sup>"The amount of new spending authority described in section 401(c)(2)(A) &amp; (B) of the Cong. Budget Act of 1974 provided in bills &amp; resolutions referred to the committee under section 401(b)(2) of that Act (but subject to the provisions of section 401(b)(3) of that Act)</p> <p><sup>1</sup>Effective 7/12/74, as described in section 401(c)2 of the Cong. Budget Act of 1974.</p>	<p>Did not change</p>	<p><u>Clarified jurisdiction over:</u></p> <p><sup>2</sup>The amount of new spending authority described in section 401(c)(2)(A) &amp; (B) of the Cong. Budget Act of 1974 which is to be effective for a fiscal year</p> <p><sup>2</sup>New spending authority described in section 401(c)(2)(C) of the Cong. Budget Act of 1974 provided in bills &amp; resolutions referred to the committee under section 401(b)(2) of that Act (but subject to the provisions of section 401(b)(3) of that Act)</p> <p><sup>2</sup>Effective 11/14/79, as described in the revision &amp; modernization of the Standing Rules.</p>	<p>Approp. of the revenue for the support of the Govt., except as provided in subparagraph (e) [Committee on the Budget]</p> <p>Rescission of approps. contained in approp. Acts (referred to in section 105 of title 1, U.S. Code)</p> <p>The amount of new spending authority described in section 401(c)(2) (A) &amp; (B) of the Cong. Budget Act of 1974 which is to be effective for a fiscal year</p> <p>New spending authority described in section 401(c)(2)(C) of the Cong. Budget Act of 1974 provided in bills &amp; resolutions referred to the committee under section 401(b)(2) of that Act (but subject to the provisions of section 401(b)(3) of that Act)</p>

The Committee on Appropriations was established in 1867.

## SENATE COMMITTEE ON ARMED SERVICES

1947 - ARMED SERVICES	INTERIM	1977 - ARMED SERVICES	INTERIM	1993 - ARMED SERVICES
<p>Common defense generally</p> <p>The War Dept. &amp; the Military Establishment generally</p> <p>The Navy Dept. &amp; the Naval Establishment generally</p> <p>Soldiers' &amp; sailors' homes</p> <p>Pay, promotion, retirement, &amp; other benefits &amp; privileges of members of the armed forces</p> <p>Selective service</p> <p>Size &amp; composition of the Army &amp; Navy</p> <p>Forts, arsenals, military reservations, &amp; navy yards</p> <p>Ammunition depots</p> <p>Maintenance &amp; operation of the Panama Canal, including the administration, sanitation, &amp; govt. of the Canal Zone</p> <p>Conservation, development, &amp; use of naval petroleum &amp; oil shale reserves</p> <p>Strategic &amp; critical materials necessary for the common defense</p>	<p><u>Clarified jurisdiction over:</u></p> <p>Aeronautical &amp; space activities peculiar to or primarily associated with the development of weapons systems or military operations</p> <p>Common defense</p> <p>Dept. of Defense, the Dept. of the Army, the Dept. of the Navy, &amp; the Dept. of the Air Force, generally</p> <p>Maintenance &amp; operation of the Panama Canal, including administration, sanitation, &amp; govt. of the Canal Zone</p> <p>Military research &amp; development</p> <p>National security aspects of nuclear energy</p> <p>Naval petroleum reserves, except those in Alaska</p> <p>Pay, promotion, retirement, &amp; other benefits &amp; privileges of members of the Armed Forces, including overseas education of civilian &amp; military dependents</p> <p>Selective service system</p> <p>Strategic &amp; critical materials necessary for the common defense</p>	<p>Added jurisdiction over:</p> <p>National security aspects of nuclear energy from Joint Committee on Atomic Energy - not officially abolished until 8/5/77</p> <p>Added <u>comprehensive policy oversight</u>:</p> <p>Common defense policy of the U.S.</p> <p>Lost jurisdiction over:</p> <p>Naval petroleum &amp; oil shale reserves in Alaska to then Committee on Interior &amp; Insular Affairs, &amp; clarified jurisdiction to state naval petroleum reserves, except those in Alaska</p> <p>Aspects of trusteeships of the U.S. to Committee on Foreign Relations</p> <p>Clarified jurisdiction over:</p> <p>The common defense</p> <p>Pay, promotion, retirement, and other benefits &amp; privileges of members of the Armed Forces, including overseas education of civilian &amp; military dependents</p> <p>Military research &amp; development</p> <p>Selective service system</p> <p>Deleted explicit language on: Soldiers' &amp; sailors' homes</p> <p>Size &amp; composition of the Army, Navy, &amp; Air Force</p>	<p>Did not change</p>	<p>Aeronautical &amp; space activities peculiar to or primarily associated with the development of weapons systems or military operations</p> <p>Common defense</p> <p>Dept. of Defense, the Dept. of the Army, the Dept. of the Navy, &amp; the Dept. of the Air Force, generally</p> <p>Maintenance &amp; operation of the Panama Canal, including administration, sanitation, &amp; govt. of the Canal Zone</p> <p>Military research &amp; development</p> <p>National security aspects of nuclear energy</p> <p>Naval petroleum reserves, except those in Alaska</p> <p>Pay, promotion, retirement, &amp; other benefits &amp; privileges of members of the Armed Forces, including overseas education of civilian &amp; military dependents</p> <p>Selective service system</p> <p>Strategic &amp; critical materials necessary for the common defense</p> <p>Comprehensive policy oversight: Common defense policy of the U.S.</p>
	<p><u>Clarified jurisdiction over:</u></p> <p>The Dept. of Defense, the Dept. of the Army, the Dept. of the Navy, the Dept. of the Air Force generally</p> <p>Size &amp; composition of the Army, Navy, &amp; Air Force</p> <p><u>Effective</u> 2/25/63.</p>			



## SENATE COMMITTEE ON ARMED SERVICES - CONTINUED

1947 - ARMED SERVICES	INTERIM	1977 - ARMED SERVICES	INTERIM	1993 - ARMED SERVICES
		Forts, arsenals, military reservations, & navy yards Ammunition depots		

The Committee on Armed Services was established in 1947. The Legislative Reorganization Act of 1946 combined the Committee on Military Affairs (created 1816) and the Committee on Naval Affairs (created 1816).

The Committee on the Militia (created 1816) was combined with the Committee on Military Affairs in 1857 to create the Committee on Military Affairs and the Militia, and was renamed the Committee on Military Affairs in 1869.

## SENATE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

1947 - BANKING & CURRENCY	INTERIM	1977 - BANKING, HOUSING, & URBAN AFFAIRS	INTERIM	1993 - BANKING, HOUSING, & URBAN AFFAIRS
<p>Banking &amp; currency generally</p> <p>Financial aid to commerce &amp; industry, other than matters relating to such aid which are specifically assigned to other committees under this rule</p> <p>Deposit insurance</p> <p>Public &amp; private housing</p> <p>Federal Reserve System</p> <p>Gold &amp; silver, including the coinage thereof</p> <p>Issuance of notes &amp; redemption thereof</p> <p>Valuation &amp; revaluation of the dollar</p> <p>Control of prices of commodities, rents, or services</p>	<p><u>Renamed</u></p> <p>Committee on Banking, Housing, &amp; Urban Affairs</p> <p>- effective 1/3/71 as described in the Legislative Reorganization Act of 1970</p> <p><u>Added</u></p> <p><u>Jurisdiction over:</u></p> <p>Urban affairs generally - effective 1/3/71, as described in the Legislative Reorganization Act of 1970</p>	<p><u>Added jurisdiction over:</u></p> <p>Veterans' housing from Committee on Veterans' Affairs, &amp; clarified jurisdiction to state public &amp; private housing (including veterans' housing)</p> <p>Foreign commerce issues from then Committee on Commerce</p> <p>All jurisdiction from Joint Committee on Defense Production - not officially abolished until 9/30/77</p> <p><u>Added comprehensive policy oversight:</u></p> <p>International econ. policy as it affects U.S. monetary affairs, credit, &amp; financial institutions; econ. growth, urban affairs, &amp; credit</p> <p><u>Clarified jurisdiction over:</u></p> <p>Renegotiation of Govt. contracts</p> <p>Nursing home construction</p> <p>Banks, banking, &amp; financial institutions</p> <p>Financial aid to commerce &amp; industry</p> <p>Federal monetary policy, including Federal Reserve System</p> <p>Money &amp; credit, including currency &amp; coinage</p> <p>Urban development &amp; urban mass transit</p> <p>Economic stabilization &amp; defense production</p>	<p>Did not change</p>	<p>Banks, banking, &amp; financial institutions</p> <p>Control of prices of commodities, rents, &amp; services</p> <p>Deposit insurance</p> <p>Econ. stabilization &amp; defense production</p> <p>Export &amp; foreign trade promotion</p> <p>Export controls</p> <p>Federal monetary policy, including Federal Reserve System</p> <p>Financial aid to commerce &amp; industry</p> <p>Issuance &amp; redemption of notes</p> <p>Money &amp; credit, including currency &amp; coinage</p> <p>Nursing home construction</p> <p>Public &amp; private housing (including veterans' housing)</p> <p>Renegotiation of Govt. contracts</p> <p>Urban development &amp; urban mass transit</p> <p><u>Comprehensive policy oversight:</u></p> <p>International econ. policy as it affects U.S. monetary affairs, credit, &amp; financial institutions; econ. growth, urban affairs, &amp; credit</p>

## SENATE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS - CONTINUED

1947 - BANKING & CURRENCY	INTERIM	1977 - BANKING, HOUSING, & URBAN AFFAIRS	INTERIM	1993 - BANKING, HOUSING, AND URBAN AFFAIRS
		Deleted explicit language on: Valuation & revaluation of the dollar		

The Committee on Banking and Currency was established in 1913. In 1921, the Committee absorbed the jurisdiction of the Committee on National Banks (created 1912).

## SENATE COMMITTEE ON THE BUDGET

1947	INTERIM	1977 - BUDGET	INTERIM	1993 - BUDGET
Did not exist	<p>Created - effective 7/12/74, as described in the Cong. Budget Act of 1974</p> <p>'All concurrent resolutions on the budget (as defined in section 3(a)(4) of the Cong. Budget Act of 1974) &amp; all other matters required to be referred to that committee under Titles III &amp; IV of that Act, &amp; messages, petitions, memorials, &amp; other matters relating thereto</p> <p>'Such committee shall have the duty-- To report the matters required to be reported by it under titles III &amp; IV of the Cong. Budget Act of 1974</p> <p>To make continuing studies of the effect on budget outlays of relevant existing &amp; proposed legislation &amp; to report the results of such studies to the Senate on a recurring basis</p> <p>To request &amp; evaluate continuing studies of tax expenditures, to devise methods of coordinating tax expenditures, policies, &amp; programs with direct budget outlays, &amp; to report the results of such studies to the Senate on a recurring basis</p> <p>To review, on a continuing basis, the conduct by the Cong. Budget Office of its functions &amp; duties</p> <p><u>Effective 7/12/74, as described in the Cong. Budget Act of 1974.</u></p>	Did not change	Did not change	<p>All concurrent resolutions on the budget (as defined in section 3(a)(4) of the Cong. Budget Act of 1974) &amp; all other matters required to be referred to that committee under titles III &amp; IV of that Act, &amp; messages, petitions, memorials, &amp; other matters relating thereto</p> <p>Such committee shall have the duty-- To report the matters required to be reported by it under titles III &amp; IV of the Cong. Budget Act of 1974</p> <p>To make continuing studies of the effect on budget outlays of relevant existing &amp; proposed legislation &amp; to report the results of such studies to the Senate on a recurring basis</p> <p>To request &amp; evaluate continuing studies of tax expenditures, to devise methods of coordinating tax expenditures, policies, &amp; programs with direct budget outlays, &amp; to report the results of such studies to the Senate on a recurring basis</p> <p>To review, on a continuing basis, the conduct by the Cong. Budget Office of its functions &amp; duties</p>

The Committee on the Budget was established by sec. 101 of the Congressional Budget Act of 1974.



## SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS (ABSORBED JURISDICTION OF THE COMMITTEE ON CIVIL SERVICE)

1947 - CIVIL SERVICE	INTERIM	1977 - GOVERNMENTAL AFFAIRS	INTERIM	1993 - GOVERNMENTAL AFFAIRS
<p>The Federal civil service generally</p> <p>The status of officers &amp; employees of the U.S., including their compensation, classification, &amp; retirement</p> <p>The postal service generally, including the railway mail service, &amp; measures relating to ocean mail &amp; pneumatic-tube service; but excluding post roads</p> <p>Postal-savings banks</p> <p>Census &amp; the collection of stats. generally</p> <p>National Archives</p>	<p><u>Renamed</u></p> <p>Committee on Post Office &amp; Civil Service on 4/17/47 - effective 1/1/48</p>	<p>All jurisdiction merged with: Committee on the District of Columbia &amp; Committee on Government Operations, to form Committee on Governmental Affairs</p>	<p>No longer in existence</p>	<p>No longer in existence</p> <p>See Expenditures in the Executive Depts./Governmental Affairs</p>

The Committee on Civil Service and Retrenchment was established in 1873, and renamed Committee on Civil Service in 1921. As a result of the Legislative Reorganization Act of 1946 the Committee absorbed the Committee on Post Offices and Post Roads (created 1816).

## SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS (ABSORBED JURISDICTION OF THE COMMITTEE ON THE DISTRICT OF COLUMBIA)

1947 - DISTRICT OF COLUMBIA	INTERIM	1977 - GOVERNMENTAL AFFAIRS	INTERIM	1993 - GOVERNMENTAL AFFAIRS
<p>All measures relating to the municipal affairs of the D. of C. in general, other than approps. therefor, including--</p> <p>Public health &amp; safety, sanitation, &amp; quarantine regulations</p> <p>Regulation of sale of intoxicating liquors</p> <p>Adulteration of food &amp; drugs</p> <p>Taxes &amp; tax sales</p> <p>Insurance, executors, administrators, wills, &amp; divorce</p> <p>Municipal &amp; juvenile courts</p> <p>Incorporation &amp; organization of societies</p> <p>Municipal code &amp; amendments to the criminal &amp; corporation laws</p>	Did not change	<p>All jurisdiction merged with: Committee on Post Office &amp; Civil Service &amp; Committee on Government Operations, to form Committee on Governmental Affairs</p>	No longer in existence	<p>No longer in existence</p> <p>See Expenditures in the Executive Depts./Governmental Affairs</p>

The Committee on the District of Columbia was established in 1816.

## SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

1947 - EXPENDITURES IN THE EXECUTIVE DEPARTMENTS	INTERIM	1977 - GOVERNMENTAL AFFAIRS	INTERIM	1993 - GOVERNMENTAL AFFAIRS
<p>Budget &amp; accounting measures, other than approps. Reorganizations in the exec. branch of the Govt.</p> <p>Such committee shall have the duty of—</p> <p>Receiving &amp; examining reports of the Comptroller General of the U.S. &amp; of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports</p> <p>Studying the operation of Govt. activities at all levels with a view to determining its economy &amp; efficiency</p> <p>Evaluating the effects of laws enacted to reorganize the legis. &amp; exec. branches of the Govt.</p> <p>Studying intergovernmental relationships between the U.S. &amp; the States &amp; municipalities, &amp; between the U.S. &amp; international organizations of which the U.S. is a member</p>	<p>Renamed Committee on Govt. Operations - effective 3/3/52</p> <p><u>Clarified jurisdiction</u></p> <p>Except as provided in the Cong. Budget Act of 1974, budget &amp; accounting measures, other than approps. - effective 7/12/74, as described in the Cong. Budget Act of 1974</p>	<p>Renamed Committee on Governmental Affairs</p> <p>Merged jurisdiction with: Committee on the District of Columbia &amp; Committee on Post Office &amp; Civil Service</p> <p><u>Clarified jurisdiction over:</u></p> <p>Organization &amp; reorganization of the executive branch of the Govt.</p> <p>Intergovernmental relations</p> <p>Govt. Information</p> <p>Organization &amp; management of U.S. nuclear export policy</p> <p>Municipal affairs of the D. of C., except approps. therefor</p> <p>Federal Civil Service</p> <p>Status of officers &amp; employees of the U.S., including their classification, compensation, &amp; benefits</p> <p>Postal Service</p> <p>Census &amp; collection of stats., including econ. &amp; social stats.</p> <p>Studying the efficiency, economy, &amp; effectiveness of all agencies &amp; depts. of the Govt.</p> <p>Cong. organization, except for any part of the matter that amends the rules or orders of the Senate</p> <p>Deleted explicit language on: Postal-savings banks</p>	<p>Did not change</p>	<p>Archives of the U.S. Budget &amp; accounting measures, other than approps., except as provided in the Cong. Budget Act of 1974</p> <p>Census &amp; collection of stats., including econ. &amp; social stats.</p> <p>Cong. organization, that amends the rules or orders of the Senate</p> <p>Federal Civil Service</p> <p>Govt. Information</p> <p>Intergovernmental relations</p> <p>Municipal affairs of the D. of C., except approps. therefor</p> <p>Organization &amp; management of U.S. nuclear export policy</p> <p>Organization &amp; reorganization of the exec. branch of the Govt.</p> <p>Postal Service</p> <p>Status of officers &amp; employees of the U.S., including their classification, compensation, &amp; benefits</p> <p>Such committee shall have the duty of—</p> <p>Receiving &amp; examining reports of the Comptroller General of the U.S. &amp; of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports</p> <p>Studying the efficiency, economy, &amp; effectiveness of all agencies &amp; depts. of the Govt.</p> <p>Evaluating the effects of laws</p>

## SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS - CONTINUED

1947 - EXPENDITURES IN THE EXECUTIVE DEPARTMENTS	INTERIM	1977 - GOVERNMENTAL AFFAIRS	INTERIM	1983 - GOVERNMENTAL AFFAIRS
		<p>[Referring to D. of C.--]  Public health &amp; safety, sanitation, &amp; quarantine regulation  Regulation of sale of intoxicating liquors  Adulteration of food &amp; drugs  Taxes &amp; sales tax  Insurance, executors, administrators, wills, &amp; divorce  Municipal &amp; juvenile courts  Incorporation &amp; organization of societies  Municipal code &amp; amendments to the criminal &amp; corporation laws</p>		<p>enacted to reorganize the legis. &amp; exec. branches of the Govt. Studying the intergovernmental relationships between the U.S. &amp; the States &amp; municipalities, &amp; between the U.S. &amp; international organizations of which the U.S. is a member</p>

The Committee on Expenditures in the Executive Departments was established in 1921, replacing ten separate "Expenditure" Committees. The Committees on Expenditures in the Departments of Agriculture, Interior, Justice, Navy, Post-Office, State, Treasury, and War were all created as select committees in 1907, and standing committees in 1909. The Committee on Expenditures in the Department of Commerce and Labor was established in 1912, and became two separate committees in 1914.



## SENATE COMMITTEE ON FINANCE

1947 - FINANCE	INTERIM	1977 - FINANCE	INTERIM	1993 - FINANCE
<p>Revenue measures generally</p> <p>The bonded debt of the U.S.</p> <p>The deposit of public moneys</p> <p>Customs, collection districts, &amp; ports of entry &amp; delivery</p> <p>Reciprocal trade agreements</p> <p>Transportation of dutiable goods</p> <p>Revenue measures relating to the insular possessions</p> <p>Tariffs &amp; import quotas, &amp; matters related thereto</p> <p>National social security</p> <p>Veterans' measures generally</p> <p>Pensions of all the wars of the U.S., general &amp; special</p> <p>Life insurance issued by the Govt. on account of service in the armed forces</p> <p>Compensation of veterans</p>	<p><u>Lost jurisdiction over:</u></p> <p><sup>1</sup>'Veterans' measures generally</p> <p><sup>1</sup>pensions of all the wars of the U.S., general &amp; special</p> <p><sup>1</sup>Life insurance issued by the Govt. on account of service in the armed forces</p> <p><sup>1</sup>Compensation of veterans</p> <p><u>Clarified jurisdiction over:</u></p> <p><sup>2</sup>Except as provided in the Cong. Budget Act of 1974, revenue measures generally</p> <p><sup>2</sup>Except as provided in the Cong. Budget Act of 1974, the bonded debt of the U.S.</p> <p><sup>1</sup>Effective 1/3/71, as described in the Legislative Reorganization of 1970 &amp; upon creation of Committee on Veterans' Affairs.</p> <p><sup>2</sup>Effective 7/12/74, as described in the Cong. Budget Act of 1974.</p>	<p><u>Clarified jurisdiction over:</u></p> <p>General revenue sharing</p> <p>Health programs under the Social Security Act &amp; health programs financed by a specific tax or trust fund</p>	<p>Did not change</p>	<p>Bonded debt of the U.S., except as provided in the Cong. Budget Act of 1974</p> <p>Customs, collection districts, &amp; ports of entry &amp; delivery</p> <p>Deposit of public moneys</p> <p>General revenue sharing</p> <p>Health programs under the Social Security Act &amp; health programs financed by a specific tax or trust fund</p> <p>National social security</p> <p>Reciprocal trade agreements</p> <p>Revenue measures generally, except as provided in the Cong. Budget Act of 1974</p> <p>Revenue measures relating to the insular possessions</p> <p>Tariffs &amp; import quotas, &amp; matters related thereto</p> <p>Transportation of dutiable goods</p>

The Committee on Finance was established in 1816.

## SENATE COMMITTEE ON FOREIGN RELATIONS

1947 - FOREIGN RELATIONS	INTERIM	1977 - FOREIGN RELATIONS	INTERIM	1993 - FOREIGN RELATIONS
<p>Relations of the U.S. with foreign nations generally</p> <p>Treaties</p> <p>Establishment of boundary lines between the U.S. &amp; foreign nations</p> <p>Protection of American citizens abroad &amp; expatriation</p> <p>Neutrality</p> <p>International conferences &amp; congresses</p> <p>The American National Red Cross</p> <p>Intervention abroad &amp; declarations of war</p> <p>Measures relating to the diplomatic service</p> <p>Acquisition of land &amp; buildings for embassies &amp; legations in foreign countries</p> <p>Measures to foster commercial intercourse with foreign nations &amp; to safeguard American business interests abroad</p> <p>United Nations Organization &amp; international financial &amp; monetary organizations</p> <p>Foreign loans</p>	<p>Did not change</p>	<p>Added jurisdiction over: National security &amp; international aspects of trusteeships of the U.S. from Committee on Armed Services &amp; then Committee on Interior &amp; Insular Affairs</p> <p><u>Added comprehensive policy oversight:</u></p> <p>National security policy, foreign policy, &amp; international economic policy as it relates to foreign policy of the U.S., &amp; matters relating to food, hunger, &amp; nutrition in foreign countries</p> <p><u>Lost jurisdiction over:</u></p> <p>Domestic activities of the Red Cross to then Committee on Labor &amp; Public Welfare, &amp; clarified jurisdiction to state international activities of the American National Red Cross &amp; the International Committee of the Red Cross</p> <p><u>Clarified jurisdiction over:</u></p> <p>Treaties &amp; exec. agreements, except reciprocal trade agreements</p> <p>Boundaries of the U.S.</p> <p>Foreign econ., military, technical, &amp; humanitarian assistance</p> <p>Oceans &amp; international environmental &amp; scientific affairs as they relate to foreign policy</p> <p>International aspects of</p>	<p>Did not change</p>	<p>Acquisition of land &amp; buildings for embassies &amp; legations in foreign countries</p> <p>Boundaries of the U.S.</p> <p>Diplomatic Service</p> <p>Foreign econ., military, technical, &amp; humanitarian assistance</p> <p>Foreign loans</p> <p>International activities of the American National Red Cross &amp; the International Committee of the Red Cross</p> <p>International aspects of nuclear energy, including nuclear transfer policy</p> <p>International conferences &amp; congresses</p> <p>International law as it relates to foreign policy</p> <p>International Monetary Fund &amp; other international organizations established primarily for international monetary purposes (except that, at the request of the Committee on Banking, Housing, &amp; Urban Affairs, any proposed legislation relating to such subjects reported by the Committee on Foreign Relations shall be referred to the Committee on Banking, Housing, &amp; Urban Affairs)</p> <p>Intervention abroad &amp; declarations of war</p> <p>Measures to foster commercial intercourse with foreign nations &amp; to safeguard American business interests abroad</p> <p>National security &amp; international aspects of trusteeships of the</p>

## SENATE COMMITTEE ON FOREIGN RELATIONS - CONTINUED

1947 - FOREIGN RELATIONS	INTERIM	1977 - FOREIGN RELATIONS	INTERIM	1993 - FOREIGN RELATIONS
		<p>nuclear energy, including nuclear transfer policy</p> <p>United Nations &amp; its affiliated organizations</p> <p>International law as it relates to foreign policy</p> <p>The World Bank group, the regional development banks, &amp; other international organizations established primarily for development assistance purposes</p> <p>International Monetary Fund &amp; other international organizations established primarily for international monetary purposes (except that, at the request of the Committee on Banking, Housing, &amp; Urban Affairs, any proposed legislation relating to such subjects reported by the Committee on Foreign Relations shall be referred to the Committee on Banking, Housing, &amp; Urban Affairs)</p> <p>Deleted explicit language on: Neutrality</p>		<p>U.S. Oceans &amp; international environmental &amp; scientific affairs as they relate to foreign policy</p> <p>Protection of U.S. citizens abroad &amp; expatriation</p> <p>Relations of the U.S. with foreign nations generally</p> <p>Treaties &amp; executive agreements, except reciprocal trade agreements</p> <p>United Nations &amp; its affiliated organizations</p> <p>World Bank group, the regional development banks, &amp; other international organizations established primarily for development assistance purposes</p> <p><u>Comprehensive policy oversight:</u> National security policy, foreign policy, &amp; international economic policy as it relates to foreign policy of the U.S. &amp; matters relating to food, hunger, &amp; nutrition in foreign countries</p>

The Committee on Foreign Relations was established in 1816. In 1921, the Committee absorbed the Committee on Canadian Relations (created 1892) and Committee on Cuban Relations (created 1899). The Committee on Canadian Relations was preceded by a select committee of the same name (created 1888).

## SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

1947 - INTERSTATE & FOREIGN COMMERCE	INTERIM	1977 - COMMERCE, SCIENCE, & TRANSPORTATION	INTERIM	1993 - COMMERCE, SCIENCE & TRANSPORTATION
<p>Interstate &amp; foreign commerce generally</p> <p>Regulation of interstate railroads, buses, trucks, &amp; pipe lines</p> <p>Communication by telephone, telegraph, radio, &amp; television</p> <p>Civil aeronautics</p> <p>Merchant marine generally</p> <p>Registering &amp; licensing of vessels &amp; small boats</p> <p>Navigation &amp; the laws relating thereto, including pilotage</p> <p>Rules &amp; international arrangements to prevent collisions at sea</p> <p>Merchant marine officers &amp; seamen</p> <p>Measures relating to the regulation of common carriers by water &amp; to the inspection of merchant marine vessels, lights &amp; signals, life-saving equipment, &amp; fire protection on such vessels</p> <p>Coast &amp; Geodetic Survey</p> <p>The Coast Guard, including life-saving service, lighthouses, lightships, &amp; ocean derelicts</p> <p>The U.S. Coast Guard &amp; Merchant Marine Academies</p> <p>Weather Bureau</p> <p>Except as provided in paragraph (c) [Committee on Armed Services], the Panama Canal &amp; interoceanic canals generally</p> <p>Inland waterways</p> <p>Fisheries &amp; wildlife, including research, restoration, refugees &amp; conservation</p> <p>Bureau of Standards including</p>	<p><u>Renamed</u> Committee on Commerce - effective 4/13/61</p> <p><u>Clarified jurisdiction over:</u></p> <p>Civil aeronautics, except aeronautical &amp; space activities of the National Aeronautics &amp; Space Administration - effective 7/24/56, upon creation of Committee on Aeronautical &amp; Space Sciences</p>	<p><u>Renamed</u> Committee on Commerce, Science &amp; Transportation</p> <p><u>Added jurisdiction over:</u></p> <p>All jurisdiction from Committee on Aeronautical &amp; Space Sciences</p> <p><u>Comprehensive policy oversight:</u></p> <p>Science &amp; technology, oceans policy, transportation, communications, &amp; consumer affairs</p> <p><u>Lost jurisdiction over:</u></p> <p>Fisheries &amp; wildlife, except marine fisheries, &amp; construction of inland waterways to then Committee on Public Works, &amp; clarified jurisdiction to state inland waterways, except construction</p> <p>Foreign commerce to Committee on Banking, Housing, &amp; Urban Affairs, &amp; clarified jurisdiction to state interstate commerce</p> <p><u>Clarified jurisdiction over:</u></p> <p>Transportation</p> <p>Regulation of interstate common carriers, including railroads, buses, trucks, vessels, pipelines, &amp; civil aviation</p> <p>Merchant marine &amp; navigation</p> <p>Marine &amp; ocean navigation,</p>	<p>Did not change</p>	<p>Coast Guard</p> <p>Coastal zone management</p> <p>Communications</p> <p>Highway safety</p> <p>Inland waterways, except construction</p> <p>Interstate commerce</p> <p>Marine &amp; ocean navigation, safety, &amp; transportation, including navigational aspects of deepwater ports</p> <p>Marine fisheries</p> <p>Merchant marine &amp; navigation</p> <p>Nonmilitary aeronautical &amp; space sciences</p> <p>Oceans, weather, &amp; atmospheric activities</p> <p>Panama Canal &amp; interoceanic canals generally, except as provided in subparagraph (c) [Committee on Armed Services]</p> <p>Regulation of consumer products &amp; services, including testing related to toxic substances, other than pesticides, &amp; except for credit, financial services, &amp; housing</p> <p>Regulation of interstate common carriers, including railroads, buses, trucks, vessels, pipelines, &amp; civil aviation</p> <p>Science, engineering, &amp; technology research &amp; development &amp; policy</p> <p>Sports</p> <p>Standards &amp; measurement</p> <p>Transportation</p> <p>Transportation &amp; commerce aspects of Outer Continental Shelf lands</p>



## SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION - CONTINUED

1947 - INTERSTATE & FOREIGN COMMERCE	INTERIM	1977 - COMMERCE, SCIENCE, & TRANSPORTATION	INTERIM	1993 - COMMERCE, SCIENCE & TRANSPORTATION
<p>standardization of weights &amp; measures &amp; the metric system</p>		<p>safety, &amp; transportation, including navigational aspects of deepwater ports Coast Guard Communications Regulation of consumer products &amp; services, including testing related to toxic substances, other than pesticides, &amp; except for credit, financial services, &amp; housing Standards &amp; measurement Highway safety Science, engineering, &amp; technology research &amp; development &amp; policy Transportation &amp; commerce aspects of Outer Continental Shelf lands Coastal zone management Oceans, weather &amp; atmospheric activities Sports</p> <p><u>Deleted explicit language on:</u> Registering &amp; licensing of vessels &amp; small boats Rules &amp; international arrangements to prevent collisions at sea Measures relating to the regulation of common carriers by water &amp; to the inspection of merchant marine vessels, lights &amp; signals, lifesaving equipment, &amp; fire protection on such vessels Coast &amp; Geodetic Survey</p>		<p><u>Comprehensive policy oversight:</u> Science &amp; technology, oceans policy, transportation, communications, &amp; consumer affairs</p>

## SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION - CONTINUED

1947 - INTERSTATE & FOREIGN COMMERCE	INTERIM	1977 - COMMERCE, SCIENCE, & TRANSPORTATION	INTERIM	1993 - COMMERCE, SCIENCE, & TRANSPORTATION
		The U.S. Coast Guard & Merchant Marine Academies Weather Bureau		

The Committee on Commerce and Manufactures was established in 1816. The Committee was divided into the Committee on Commerce and Committee on Manufactures in 1825. In 1921, the Committee on Commerce absorbed the Committee on the Mississippi and its Tributaries (created 1881, renamed the Committee on the Improvement of the Mississippi River and its Tributaries in 1883, and reassumed its original title in 1903), Committee on Fisheries (created 1884), Committee on Standards, Weights, and Measures (created 1909 and replaced the Select Committee on Standards, Weights, and Measures - established in 1901), Committee on Conservation of Natural Resources (created 1909), Committee on Coast and Insular Survey (created 1899), Committee on Pacific Railroads (created 1863, replaced the Select Committee on the Pacific Railroad - established 1854 - and temporarily absorbed by the Committee on Railroads in 1873 before reassuming its original title in 1893), Committee on Railroads (created 1873), Committee on Transportation Routes to the Seaboard (created 1879 and replaced the Select Committee on Transportation Routes to the Seaboard - established in 1872), and Committee on Transportation and Sale of Meat Products (created 1909).

In 1895, the Select Committee to Investigate Interstate Commerce was established, and became the Committee on Interstate Commerce in 1887. As a result of the Legislative Reorganization Act of 1946, the Committee was renamed the Committee on Interstate and Foreign Commerce, and absorbed the Committee on Commerce and the Committee on Intercoastal Canals (created 1899). In addition, the Committee on Manufactures was terminated.

## SENATE COMMITTEE ON THE JUDICIARY

1947 - JUDICIARY	INTERIM	1977 - JUDICIARY	INTERIM	1993 - JUDICIARY
<p>Judicial proceedings, civil &amp; criminal, generally</p> <p>Constitutional amendments</p> <p>Federal courts &amp; judges</p> <p>Local courts in the Territories &amp; possessions</p> <p>Revision &amp; codification of the statutes of the U.S.</p> <p>National penitentiaries</p> <p>Protection of trade &amp; commerce against unlawful restraints &amp; monopolies</p> <p>Holidays &amp; celebrations</p> <p>Bankruptcy, mutiny, espionage, &amp; counterfeiting</p> <p>State &amp; Territorial boundary lines</p> <p>Meetings of Congress, attendance of Members, &amp; their acceptance of incompatible offices</p> <p>Civil liberties</p> <p>Patents, copyrights, &amp; trademarks</p> <p>Patent Office</p> <p>Immigration &amp; naturalization</p> <p>Apportionment of Representatives</p> <p>Measures relating to claims against the U.S.</p> <p>Interstate compacts generally</p>	<p>Did not change</p>	<p>Lost jurisdiction over: Meetings of Congress, attendance of Members, &amp; their acceptance of incompatible offices to Committee on Rules &amp; Administration</p> <p><u>Clarified jurisdiction over:</u> Govt. information</p>	<p>Did not change</p>	<p>Apportionment of Representatives</p> <p>Bankruptcy, mutiny, espionage, &amp; counterfeiting</p> <p>Civil liberties</p> <p>Constitutional amendments</p> <p>Federal courts &amp; judges</p> <p>Govt. information</p> <p>Holidays &amp; celebrations</p> <p>Immigration &amp; naturalization</p> <p>Interstate compacts generally</p> <p>Judicial proceedings, civil &amp; criminal, generally</p> <p>Local courts in the territories &amp; possessions</p> <p>Measures relating to claims against the U.S.</p> <p>National penitentiaries</p> <p>Patent Office</p> <p>Patents, copyrights, &amp; trademarks</p> <p>Protection of trade &amp; commerce against unlawful restraints &amp; monopolies</p> <p>Revision &amp; codification of the statutes of the U.S.</p> <p>State &amp; territorial boundary lines</p>

The Committee on the Judiciary was created in 1816. As a result of the Legislative Reorganization Act of 1946, the Committee absorbed the Committee on Claims (created 1816), Committee on Patents (created 1837), and Committee on Immigration (created 1889).

## SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES

1947 - LABOR & PUBLIC WELFARE	INTERIM	1977 - HUMAN RESOURCES	INTERIM	1993 - LABOR & HUMAN RESOURCES
<p>Measures relating to education, labor, or public welfare generally</p> <p>Mediation &amp; arbitration of labor disputes</p> <p>Wages &amp; hours of labor</p> <p>Convict labor &amp; the entry of goods made by convicts into interstate commerce</p> <p>Regulation or prevention of importation of foreign laborers under contract</p> <p>Child labor</p> <p>Labor stats.</p> <p>Labor standards</p> <p>School-lunch program</p> <p>Vocational rehabilitation</p> <p>Railroad labor &amp; railroad retirement &amp; unemployment, except revenue measures relating thereto</p> <p>U.S. Employees' Compensation Commission</p> <p>Columbia Institution for the Deaf, Dumb, &amp; Blind; Howard University; Freedmen's Hospital; &amp; St Elizabeth's Hospital</p> <p>Public health &amp; quarantine</p> <p>Welfare of miners</p> <p>Vocational rehabilitation &amp; education of veterans</p> <p>Veterans' hospitals, medical care &amp; treatment of veterans</p> <p>Soldiers' &amp; sailors' civil relief</p> <p>Readjustment of servicemen to civil life</p>	<p><u>Lost jurisdiction over:</u></p> <p>'Vocational rehabilitation &amp; education of veterans'</p> <p>'Veterans' hospitals, medical care &amp; treatment of veterans'</p> <p>'Soldiers' &amp; sailors' civil relief'</p> <p>'Readjustment of servicemen to civil life'</p> <hr/> <p>'Effective 1/3/71, as described in the</p> <p>Legislative Reorganization Act of 1970 &amp; upon creation of Committee on Veterans' Affairs.</p>	<p><u>Renamed</u> Committee on Human Resources</p> <p><u>Added jurisdiction over:</u></p> <p>Agricultural colleges from then Committee on Agriculture &amp; Forestry</p> <p>Domestic activities of the American National Red Cross from Committee on Foreign Relations</p> <p><u>Added comprehensive policy oversight:</u></p> <p>Health, education &amp; training, &amp; public welfare</p> <p><u>Lost jurisdiction over:</u></p> <p>School-lunch program to then Committee on Agriculture &amp; Forestry</p> <p><u>Clarified jurisdiction over:</u></p> <p>Measures relating to education, labor, or public welfare</p> <p>Regulation of foreign laborers</p> <p>Handicapped individuals</p> <p>Equal employment opportunity</p> <p>Occupational safety &amp; health, including the welfare of miners</p> <p>Private pension plans</p> <p>Railway labor &amp; retirement</p> <p>Regulation of foreign laborers</p> <p>Student loans</p> <p>Wages &amp; hours of labor</p>	<p><u>Renamed</u> Committee on Labor &amp; Human Resources - effective 3/7/79</p>	<p>Measures relating to education, labor, health, &amp; public welfare</p> <p>Aging</p> <p>Agricultural colleges</p> <p>Arts &amp; humanities</p> <p>Biomedical research &amp; development</p> <p>Child labor</p> <p>Convict labor &amp; the entry of goods made by convicts into interstate commerce</p> <p>Domestic activities of the American National Red Cross</p> <p>Equal employment opportunity</p> <p>Gallaudet College, Howard University, &amp; St Elizabeth's Hospital</p> <p>Handicapped individuals</p> <p>Labor standards &amp; labor stats.</p> <p>Mediation &amp; arbitration of labor disputes</p> <p>Occupational safety &amp; health, including the welfare of miners</p> <p>Private pension plans</p> <p>Public health</p> <p>Railway labor &amp; retirement</p> <p>Regulation of foreign laborers</p> <p>Student loans</p> <p>Wages &amp; hours of labor</p> <p><u>Comprehensive policy oversight:</u></p> <p>Health, education &amp; training, &amp; public welfare</p>



## SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES - CONTINUED

1947 - LABOR & PUBLIC WELFARE	INTERIM	1977 - HUMAN RESOURCES	INTERIM	1983 - LABOR & HUMAN RESOURCES
		development Student loans  Deleted explicit language on: Vocational rehabilitation		

The Committee on Education was established in 1869, and renamed the Committee on Education and Labor in 1870. In 1921, it absorbed the Committee on Public Health and National Quarantine (created in 1896 and replaced the Committee on Epidemic Diseases - established in 1887 - which was formed as a select committee with the same title in 1876). The Committee on Labor and Public Welfare was created by the Legislative Reorganization Act of 1946, absorbing the Committee on Education and Labor.

## SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

1947 - PUBLIC LANDS	INTERIM	1977 - ENERGY & NATURAL RESOURCES	INTERIM	1993 - ENERGY & NATURAL RESOURCES
Public lands generally, including entry, easements, & grazing thereon Mineral resources of the public lands Forfeiture of land grants & alien ownership, including alien ownership of mineral lands Forest reserves & national parks created from the public domain Military parks & battlefields, & national cemeteries Preservation of prehistoric ruins & objects of interest on the public domain Measures relating generally to Hawaii, Alaska, & the insular possessions of the U.S., except those affecting their revenue & approps. Irrigation & reclamation, including water supply for reclamation projects, & easements of public lands for irrigation projects Interstate compacts relating to apportionment of waters for irrigation purposes Mining interests generally Mineral land laws & claims & entries thereunder Geological survey Mining schools & experimental stations Petroleum conservation & conservation of the radium supply in the U.S. Relations of the U.S. with the Indians & the Indian tribes Measures relating to the care, education, & management of	Renamed Committee on Interior & Insular Affairs - effective 1/28/48  <u>Clarified jurisdiction over:</u> Measures relating generally to the insular possessions of the U.S., except those affecting their revenue & approps. - effective 2/25/63  <u>Lost jurisdiction over:</u> National cemeteries - effective 1/3/71, as described in the Legislative Reorganization Act of 1970 & upon creation of Committee on Veterans' Affairs	Renamed Committee on Energy & Natural Resources Added jurisdiction over: Naval petroleum reserves in Alaska from Committee on Armed Services Water power from then Committee on Public Works, & clarified jurisdiction to state hydroelectric power, irrigation, & reclamation Nonmilitary development of nuclear energy from Joint Committee on Atomic Energy - not officially abolished until 8/5/77  <u>Comprehensive policy oversight:</u> Energy & resources development  <u>Lost jurisdiction over:</u> Aspects of trusteeships of the U.S. to Committee on Foreign Relations, & clarified jurisdiction to state territorial possessions of the U.S., including trusteeships Relations of the U.S. with the Indians & the Indian tribes, & measures relating to the care, education, & management of Indians, including the care & allotment of Indian lands & general & special measures relating to claims which are paid out of Indian funds to	Did not change	Coal production, distribution, & utilization Energy policy Energy regulation & conservation Energy related aspects of deepwater ports Energy research & development Extraction of minerals from oceans & Outer Continental Shelf lands Hydroelectric power, irrigation, & reclamation Mining education & research Mining, mineral lands, mining claims, & mineral conservation National parks, recreation areas, wilderness areas, wild & scenic rivers, historical sites, military parks & battlefields, & on the public domain, preservation of prehistoric ruins & objects of interest Naval petroleum reserves in Alaska Nonmilitary development of nuclear energy Oil & gas production & distribution Public lands & forests, including farming & grazing thereon, & mineral extraction therefrom Solar energy systems Territorial possessions of the U.S., including trusteeships  <u>Comprehensive policy oversight:</u> Energy & resources development

## SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES - CONTINUED

1947 - PUBLIC LANDS	INTERIM	1977 - ENERGY & NATURAL RESOURCES	INTERIM	1993 - ENERGY & NATURAL RESOURCES
<p>Indians, including the care &amp; allotment of Indian lands &amp; general &amp; special measures relating to claims which are paid out of Indian funds</p>		<p>the Select Committee on Indian Affairs</p> <p><u>Clarified jurisdiction over:</u>            Energy policy            Energy regulation &amp; conservation            Energy research &amp; development            Solar energy systems            Oil &amp; gas production &amp; distribution            Extraction of minerals from oceans &amp; Outer Continental Shelf lands            Energy related aspects of deepwater ports            Coal production, distribution, &amp; utilization            Public lands &amp; forests, including farming &amp; grazing thereon, &amp; mineral extraction therefrom            National parks, recreation areas, wilderness areas, wild &amp; scenic rivers, historical sites, military parks &amp; battlefields, &amp; on the public domain, preservation of prehistoric ruins &amp; objects of interest            Mining, mineral lands, mining claims, &amp; mineral conservation            Mining education &amp; research</p> <p><u>Deleted explicit language on:</u>            Forfeiture of land grants &amp; alien ownership, including alien ownership of mineral</p>		

## SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES - CONTINUED

1947 - PUBLIC LANDS	INTERIM	1977 - ENERGY & NATURAL RESOURCES	INTERIM	1993 - ENERGY & NATURAL RESOURCES
		lands Interstate compacts relating to apportionment of waters for irrigation purposes Geological survey Petroleum conservation & conservation of the radium supply in the U.S.		

The Committee on Public Lands was created in 1816. In 1921, the Committee was renamed the Committee on Public Lands and Surveys, and absorbed the Committee on the Geological Survey (created 1899). As a result of the Legislative Reorganization Act of 1946, the Committee reassumed its original name, and absorbed the Committee on Indian Affairs (created 1820), Committee on Territories (created 1844 and renamed the Committee on Territories and Insular Possessions in 1921), Committee on Mines & Mining (created 1865), and Committee on Irrigation and Reclamation of Arid Lands (created 1891 and renamed Irrigation in 1903, Irrigation and Reclamation of Arid Lands in 1907, and Irrigation and Reclamation in 1921).



## SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

1947 - PUBLIC WORKS	INTERIM	1977 - ENVIRONMENT & PUBLIC WORKS	INTERIM	1983 - ENVIRONMENT & PUBLIC WORKS
<p>Flood control &amp; improvement of rivers &amp; harbors</p> <p>Public works for the benefit of navigation, &amp; bridges &amp; dams (other than international bridges &amp; dams)</p> <p>Water power</p> <p>Oil &amp; other pollution of navigable waters</p> <p>Public buildings &amp; occupied or improved grounds of the U.S. generally</p> <p>Measures relating to the purchase of sites &amp; construction of post offices, customhouses, Federal courthouses, &amp; Govt. buildings within the D. of C.</p> <p>Measures relating to the Capitol building &amp; the Senate &amp; House Office Buildings</p> <p>Measures relating to the construction or reconstruction, maintenance, &amp; care of the buildings &amp; grounds of the Botanic Gardens, the Library of Congress, &amp; the Smithsonian Institution</p> <p>Public reservations &amp; parks within the D. of C., including Rock Creek Park &amp; the Zoological Park</p> <p>Measures relating to the construction or maintenance of roads &amp; post roads</p>	<p>Did not change</p>	<p>Renamed Committee on Environment &amp; Public Works</p> <p><u>Added jurisdiction over:</u> Fisheries &amp; wildlife &amp; construction of inland waterways from then</p> <p>Committee on Commerce</p> <p>Nonmilitary environmental regulation &amp; control of nuclear energy from Joint Committee on Atomic Energy - not officially abolished until 8/5/77</p> <p><u>Added comprehensive policy oversight:</u> Environmental protection &amp; resource utilization &amp; conservation</p> <p><u>Lost jurisdiction over:</u> Water power to then Committee on Interior &amp; Insular Affairs</p> <p>Measures relating to the Capitol Building &amp; the Senate &amp; House Office Buildings, &amp; measures relating to the construction or reconstruction, maintenance, &amp; care of the buildings &amp; grounds of the Botanic Gardens, the Library of Congress, &amp; the Smithsonian Institution to Committee on Rules &amp; Administration</p>	<p>Did not change</p>	<p>Air pollution</p> <p>Construction &amp; maintenance of highways</p> <p>Environmental aspects of Outer Continental Shelf lands</p> <p>Environmental effects of toxic substances, other than pesticides</p> <p>Environmental policy</p> <p>Environmental research &amp; development</p> <p>Fisheries &amp; wildlife</p> <p>Flood control &amp; improvements of rivers &amp; harbors, including environmental aspects of deepwater ports</p> <p>Noise pollution</p> <p>Nonmilitary environmental regulation &amp; control of nuclear energy</p> <p>Ocean dumping</p> <p>Public buildings &amp; improved grounds of the U.S. generally, including Federal buildings in the D. of C.</p> <p>Public works, bridges, &amp; dams</p> <p>Regional econ. development</p> <p>Solid waste disposal &amp; recycling</p> <p>Water pollution</p> <p>Water resources</p> <p><u>Comprehensive policy oversight:</u> Environmental protection &amp; resource utilization &amp; conservation</p>

## SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS - CONTINUED

1947 - PUBLIC WORKS	INTERIM	1977 - ENVIRONMENT & PUBLIC WORKS	INTERIM	1993 - ENVIRONMENT & PUBLIC WORKS
		<p>Clarified jurisdiction over:  Environmental policy  Environmental research &amp; development  Ocean dumping  Environmental aspects of Outer Continental Shelf lands  Solid waste disposal &amp; recycling  Environmental effects of toxic substances, other than pesticides  Water resources  Flood control &amp; improvements of rivers &amp; harbors, including environmental aspects of deepwater ports  Public works, bridges, &amp; dams  Water pollution  Air pollution  Noise pollution  Regional econ. development  Construction &amp; maintenance of highways  Public buildings &amp; improved grounds of the U.S. generally, including Federal buildings in the D. of C.</p> <p>Deleted explicit language on:  Public reservations &amp; parks within the D. of C., including Rock Creek Park &amp; the Zoological Park</p>		

The Committee on Public Buildings was established in 1838, and renamed the Committee on Public Buildings and Grounds in 1857. The Legislative Reorganization Act of 1946 changed the name to the Committee on Public Works, and added jurisdiction over roads, rivers, and harbors.

## SENATE COMMITTEE ON RULES AND ADMINISTRATION

1947 - RULES & ADMINISTRATION	INTERIM	1977 - RULES & ADMINISTRATION	INTERIM	1993 - RULES & ADMINISTRATION
<p>Matters relating to the payment of money out of the contingent fund of the Senate or creating a charge upon the same; except that any resolution relating to substantive matter within the jurisdiction of any other standing committee of the Senate shall be first referred to such committee</p> <p>Except as provided in paragraph (n) 8 [Committee on Public Works], matters relating to the Library of Congress &amp; the Senate Library; statutory &amp; pictures; acceptance or purchase of works of art for the Capitol; the Botanic Gardens; management of the Library of Congress; purchase of books &amp; manuscripts; erection of monuments to the memory of individuals</p> <p>Except as provided in paragraph (n) 8 [Committee on Public Works], matters relating to the Smithsonian Institution &amp; the incorporation of similar institutions</p> <p>Matters relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; credentials &amp; qualifications; Federal elections generally; Presidential successions</p> <p>Matters relating to parliamentary rules; floor &amp; gallery rules; Senate Restaurant; administration of the Senate</p>	<p><u>Clarified jurisdiction over:</u> Such committee shall also have the duty of assigning office space in the Senate Wing of the Capitol &amp; in the Senate Office Building - effective 1/17/47</p>	<p><u>Added jurisdiction over:</u> Meetings of the Congress, attendance of Members, &amp; acceptance of incompatible offices from Committee on the Judiciary</p> <p>The U.S. Capitol &amp; cong. office buildings, the Library of Congress, the Smithsonian Institution (&amp; the incorporation of similar institutions), &amp; the Botanic Gardens from then Committee on Public Works</p> <p>All jurisdiction from Joint Committee on Cong. Operations</p> <p><u>Clarified jurisdiction over:</u> Federal elections generally, including the election of the President, Vice President, &amp; Members of the Congress</p> <p>Credentials &amp; qualifications of Members of the Senate, contested elections, &amp; acceptance of incompatible offices</p> <p>Presidential succession</p> <p>Corrupt practices</p> <p>The Govt. Printing Office, &amp; the printing &amp; correction of the Cong. Record</p> <p>The Senate Library &amp; statutory art, &amp; pictures in the Capitol &amp; Senate Office Buildings</p> <p>Purchase of books &amp; manuscripts &amp; erection of monuments to the memory of individuals</p>	<p><u>Clarified jurisdiction over:</u> Govt. Printing Office, &amp; the printing &amp; correction of the Cong. Record, as well as those matters provided for under rule XXIX - effective 11/14/79, as described under the revision &amp; modernization of the Standing Rules</p>	<p>Administration of the Senate Office Buildings &amp; the Senate wing of the Capitol, including the assignment of office space</p> <p>Cong. organization relative to rules &amp; procedures, &amp; Senate rules &amp; regulations, including floor &amp; gallery rules</p> <p>Corrupt practices</p> <p>Credentials &amp; qualifications of Members of the Senate, contested elections, &amp; acceptance of incompatible offices</p> <p>Federal elections generally, including the election of the President, Vice President, &amp; Members of Congress</p> <p>Govt. Printing Office, &amp; the printing &amp; correction of the Cong. Record, as well as those matters provided for under rule XI</p> <p>Meetings of the Congress &amp; attendance of Members</p> <p>Payment of money out of the contingent fund of the Senate or creating a charge upon the same (except that any resolution relating to substantive matter within the jurisdiction of any other standing committee of the Senate shall be first referred to such committee)</p> <p>Presidential succession</p> <p>Purchase of books &amp; manuscripts &amp; erection of monuments to the memory of individuals</p> <p>Senate Library &amp; statutory, art, &amp;</p>

## SENATE COMMITTEE ON RULES AND ADMINISTRATION - CONTINUED

1947 - RULES & ADMINISTRATION	INTERIM	1977 - RULES & ADMINISTRATION	INTERIM	1993 - RULES & ADMINISTRATION
<p>Office Building &amp; of the Senate Wing of the Capitol; assignment of office space; &amp; services to the Senate</p> <p>Matters relating to printing &amp; correction of the Cong. Record</p> <p>Such committee shall also have the duty of examining all bills, amendments, &amp; joint resolutions after passage by the Senate; &amp;, in cooperation with the Committee on House Administration of the House of Representatives, of examining all bills &amp; joint resolutions which shall have passed both Houses, to see that the same are correctly enrolled; &amp; when signed by the Speaker of the House &amp; the President of the Senate, shall forthwith present the same, when they shall have originated in the Senate, to the President of the U.S. in person, &amp; report the fact &amp; date of such presentation to the Senate.</p> <p>Such committee shall also have the duty of assigning office space in the Senate Wing of the Capitol &amp; in the Senate Office Building</p>		<p>Cong. organization relative to rules &amp; procedures, &amp; Senate rules &amp; regulations, including floor &amp; gallery rules</p> <p>Administration of the Senate Office Buildings &amp; the Senate wing of the Capitol, including the assignment of office space</p> <p>Services to the Senate, including the Senate restaurant</p> <p>Such committee shall also—</p> <p>Identify any court proceeding or action which, in the opinion of the Committee, is of vital interest to the Congress as a constitutionally established institution of the Federal Govt. &amp; call such proceeding or action to the attention of the Senate</p>		<p>pictures in the Capitol &amp; Senate Office Buildings</p> <p>Services to the Senate, including the Senate restaurant</p> <p>U.S. Capitol &amp; cong. office buildings, the Library of Congress, the Smithsonian Institution (&amp; the incorporation of similar institutions), &amp; the Botanic Gardens</p> <p>Such committee shall also—</p> <p>Make a continuing study of the organization &amp; operation of the Congress of the U.S. &amp; shall recommend improvements in such organization &amp; operation with a view toward strengthening the Congress, simplifying its operations, improving its relationships with other branches of the U.S. Govt., &amp; enabling it better to meet its responsibilities under the Constitution of the U.S.</p> <p>Identify any court proceeding or action which, in the opinion of the Committee, is of vital interest to the Congress as a constitutionally established institution of the Federal Govt. &amp; call such proceeding or action to the attention of the Senate</p>

The Committee on Rules and Administration was established by the Legislative Reorganization Act of 1946, combining the Committee on Enrolled Bills (created 1789 as joint committee, and 1875 as a standing committee), Committee on the Library (created 1806 as joint committee), Committee to Audit and Control the Contingent Expenses of the Senate (created 1819), Committee on Printing (created 1841), Committee on Privileges and Elections (created 1871), and Committee on Rules (created 1874 and replaced the Select Committee to Revise the Rules of the Senate - established in 1867).

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## SENATE COMMITTEE ON SMALL BUSINESS

1947	INTERIM	1977 - SMALL BUSINESS	INTERIM	1993 - SMALL BUSINESS
<p>Did not exist</p>	<p>Created as Select Committee on Small Business - effective 2/20/50</p> <p>Small Business Administration</p> <p>No proposed legislation shall be referred to such committee &amp; such committee shall not have power to report by bill or otherwise have legislative jurisdiction. It shall be the duty of such committee to study &amp; survey by means of research &amp; investigation all problems of American small-business enterprises, &amp; to obtain all facts possible in relation thereto which would not only be of public interest, but which would aid the Congress in enacting remedial legislation, &amp; to report to the Senate from time to time the results of such studies &amp; surveys</p>	<p><u>Granted legislative jurisdiction:</u></p> <p>Small Business Administration</p> <p>Any proposed legislation reported by such committee which relates to matters other than the functions of the Small Business Administration shall, at the request of the chairman of any standing committee having jurisdiction over the subject matter extraneous to the functions of the Small Business Administration, be considered &amp; reported by such standing committee prior to its consideration by the Senate; and likewise measures reported by other committees directly relating to the Small Business Administration shall, at the request of the chairman of the Committee on Small Business, be referred to the Committee on Small Business for its consideration of any portions of the measure dealing with the Small Business Administration, &amp; be reported by this committee prior to its consideration by the Senate</p> <p>Such committee shall also study &amp; survey by means of research &amp; investigation all problems of American small business enterprises</p>	<p>Became <u>standing committee</u> - effective 3/25/81</p>	<p>Small Business Administration</p> <p>Any proposed legislation reported by such committee which relates to matters other than the functions of the Small Business Administration shall, at the request of the chairman of any standing committee having jurisdiction over the subject matter extraneous to the functions of the Small Business Administration, be considered &amp; reported by such standing committee prior to its consideration by the Senate; and likewise measures reported by other committees directly relating to the Small Business Administration shall, at the request of the chairman of the Committee on Small Business, be referred to the Committee on Small Business for its consideration of any portions of the measure dealing with the Small Business Administration, &amp; be reported by this committee prior to its consideration by the Senate</p> <p>Such committee shall also study &amp; survey by means of research &amp; investigation all problems of American small business enterprises</p>

SENATE COMMITTEE ON SMALL BUSINESS - CONTINUED

1947	INTERIM	1977 - SMALL BUSINESS	INTERIM	1993 - SMALL BUSINESS
		of research & investigation all problems of American small business enterprises		

The Select Committee on Small Business was established in 1950. The Select Committee was preceded by the Special Committee to Study Problems of American Small Business (created 1940).

## SENATE COMMITTEE ON VETERANS' AFFAIRS

1947	INTERIM	1977 - VETERANS' AFFAIRS	INTERIM	1993 - VETERANS' AFFAIRS
Did not exist	<p>Created - effective 1/3/71, as described by the Legislative Reorganization Act on 1970</p> <p>Add jurisdiction over:</p> <ul style="list-style-type: none"> <li>*Veterans' measures generally</li> <li>*Pensions of all wars of the U.S., general &amp; special</li> <li>*Life insurance issued by the Govt. on account of service in the armed forces</li> <li>*Compensation of veterans</li> </ul> <p>Added jurisdiction over:</p> <ul style="list-style-type: none"> <li>*National cemeteries</li> </ul> <p>Added jurisdiction over:</p> <ul style="list-style-type: none"> <li>*Vocational rehabilitation &amp; education of veterans</li> <li>*Veterans' hospitals, medical care &amp; treatment of veterans</li> <li>*Soldiers' &amp; sailors' civil relief</li> <li>*Readjustment of servicemen to civil life</li> </ul> <hr/> <p>*Received jurisdiction from Committee on Finance upon creation of the Committee.</p> <p>*Received jurisdiction from then Committee on Interior &amp; Insular Affairs upon creation of the Committee.</p> <p>*Received jurisdiction from then Committee on Labor &amp; Public Welfare upon creation of the Committee.</p>	<p>Lost jurisdiction over:</p> <ul style="list-style-type: none"> <li>Veterans' housing to Committee on Banking, Housing &amp; Urban Affairs</li> </ul>	Did not change	<p>Compensation of veterans</p> <p>Life insurance issued by the Govt. on account of service in the Armed Forces</p> <p>National cemeteries</p> <p>Pensions of all wars of the U.S., general &amp; special</p> <p>Readjustment of servicemen to civil life</p> <p>Soldiers' &amp; sailors' civil relief</p> <p>Veterans' hospitals, medical care &amp; treatment of veterans</p> <p>Veterans' measures generally</p> <p>Vocational rehabilitation &amp; education of veterans</p>

The Committee on Veterans' Affairs was established by the Legislative Reorganization Act of 1970.

## **Committee Reorganization: Some Options**

**Prepared by the Congressional Research Service  
at the request of the  
Joint Committee on the Organization of Congress**

**March 26, 1993**



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## Congress of the United States

JOINT COMMITTEE ON  
 THE ORGANIZATION OF CONGRESS  
 ROOM 1750 FORD HOUSE OFFICE BUILDING  
 Washington, DC 20510-0775

April 1, 1993

Dear Colleague:


The Joint Committee on the Organization of Congress has a mandate to make a full and complete study of the organization and operation of Congress. Pursuant to its authorizing legislation, the Joint Committee is specifically required to examine the "structure of, and the relationships between, the various standing, special, and select committees of Congress."

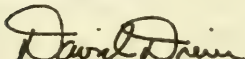
Next month, the Joint Committee will hold a series of hearings on committee structure, jurisdiction, and procedures. In order to prepare for those hearings, the attached committee jurisdiction models were developed by the Congressional Research Service (CRS), at our request, in order to provide Members of Congress with a wide array of information regarding possible options for committee reorganization. The underlying assumptions for each model are in no way mutually exclusive; features in one plan could easily be assimilated into another. The goal is to get a broad range of plans out for discussion and comment.

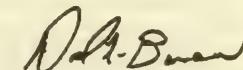
This options paper was prepared by CRS in order to facilitate discussion of the issues of committee structure, jurisdiction, and procedures. Neither the Joint Committee, nor we individually, endorse any of the plans contained within the report. The decisions made regarding which plans were included or excluded, the nature of the underlying assumptions, and the order in which the plans were presented do not reflect a judgment on the merits of any particular plan.

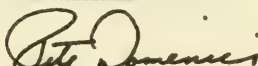
We believe this institution has a unique window of opportunity to consider significant changes in the way it conducts business. We look forward to your active participation.

Sincerely,

  
 Lee Hamilton  
 Co-Chairman

  
 David Dreier  
 Vice-Chairman

  
 David L. Boren  
 Co-Chairman

  
 Pete V. Domenici  
 Vice-Chairman



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March 26, 1993

Honorable David Boren, Co-Chairman  
 Honorable Lee Hamilton, Co-Chairman  
 Honorable Pete Domenici, Co-Vice Chairman  
 Honorable David Dreier, Co-Vice Chairman  
 Joint Committee on the Organization of Congress  
 Washington, DC 20515

Gentlemen:

In response to your request, CRS is pleased to submit options for restructuring the current congressional committee system. These models were devised in accordance with the Joint Committee's instructions.

Initially, CRS and Joint Committee staff identified plans for possible inclusion—ones proposed in prior reform efforts or during the current Congress, or other models based on various analytical assumptions. Each plan is predicated on a considered estimate of the likely number and names of committees and their jurisdictional responsibilities. In many cases, the plans are based on a redistribution of jurisdictions among existing House and Senate committees. CRS neither endorses nor opposes any plan; nor was any plan delineated based on its likely potential for adoption.

As requested, the plans are unaccompanied by any analysis of their purpose, scope, and effect, although such an analysis is in preparation pursuant to a separate request from the Committee. The principal authors of the document are Judy Schneider and Paul S. Rundquist, Legislative Specialists in our Government Division. In responding to the request, they called upon the knowledge of numerous CRS staff in subject divisions.

I trust the enclosed options will be of assistance to the Committee in its consideration of an issue that is central to the organization and operations of the legislative process. CRS looks forward to continuing its close assistance to the Committee as it moves forward on its agenda in the balance of 1993.

Sincerely,

 A handwritten signature in dark ink, appearing to read "Joe E. Ross", is written over a horizontal line.
 

Joseph E. Ross  
 Director

### SOME GENERAL COMMENTS

This document contains fourteen committee system models. They are based, in part, on prior committee reform plans and, in part, on attempts to illustrate various alternatives for the assembly of public policy issues in committees of different sizes. The purpose is to stimulate discussion of various possible alternatives for restructuring the House and Senate committee systems and realigning jurisdictional issues. Those presented are not endorsed by the Congressional Research Service nor does CRS take a position on the need for committee restructuring.

In any restructuring of the committee system, the interrelationship between the number of panels and the distribution of jurisdiction must not be overlooked. Also, any committee system model must take account of the number of panels and the type of multiple referral process that is to exist if any. Similarly, any committee system model needs to evaluate workload shifts resulting from jurisdiction change, variation in issue importance and the accompanying impact on workload, and the effect on committee workloads of possible changes in floor procedures (e.g., alternative ways to deal with commemorative legislation). Ancillary concerns of interest not directly related to legislative jurisdiction include the size of committee membership, party ratios, the number of assignments per Member, and committee substructures and their effect on workload and assignments, i.e., the House and Senate subcommittee systems. These perspectives were considered in designing and explicating the options contained in this report. Oversight responsibilities are not enumerated in the models.

The models are not analyzed; nor are they listed in any particular order of importance, priority, or viability; nor has the inclusion of a model taken into account the "politics" of trying to adopt it. The concepts underlying the various models are not mutually exclusive: i.e., a concept or committee listed in one plan might be successfully integrated into another one.

No particular attempt has been made to achieve consistency in jurisdictional approaches taken in the various plans. This variation is deliberate to illustrate that various subjects are open to categorization under several different topic areas. For example, under some models presented here, the Coast Guard is assigned to a national security committee as part of the national defense; but in one, it is included under the committee having jurisdiction over transportation. In still another, it is listed under a committee concerned with international trade and commerce. Arguably, it could also be listed under a judicial committee or the committee having authority over tariffs and customs because of its role in interdicting narcotics traffickers, smugglers, and other ocean-borne law violators.

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CRS gratefully acknowledges the work of Linda Bailey, Randall Andrews, Daphne Bigger, Doris Bilal, Mildred Boyle, Ernest Brown, Joan Dickson, Dolores Schofield, and JoAnn Thomas for their assistance in the production of this report. Special thanks to Fred Pauls for his assistance in the conceptual design of this project.



**BUDGET FUNCTION COMMITTEE STRUCTURE**

## COMMITTEES BASED ON BUDGET FUNCTIONS

### Underlying Philosophy

1. Committees would largely correspond to budget process; could also include option to merge authorization-appropriation-budget process.
2. Would marginally decrease the number of House and Senate committees.
3. Would result in House and Senate committee structures that were more parallel.
4. Jurisdictional issues would be more defined in programmatic and activity language, rather than topical as now exists.
5. Members might be limited to one or two committee assignments each, with similar restraints on the number of subcommittees per panel.
6. Cannot guarantee equal legislative workloads, although the dollar volume authorized by each committee is more equal than currently.
7. Version "A" utilizes program terms developed by CBO and the Budget Committees to describe budget functions; version "B" uses jurisdiction terms in House Rule X and Senate Rule XXV.
8. Option to establish separate ethics and rules committees in House and Senate.

### HOUSE COMMITTEES

Committee on Administration  
of Justice  
Committee on Agriculture  
Committee on Commerce &  
Housing  
Committee on Community and  
Regional Development  
Committee on Education, —  
Training, Employment &  
Social Services  
Committee on Energy  
Committee on General  
Government  
Committee on Health  
Committee on Income Security  
Committee on International  
Affairs  
Committee on National  
Defense  
Committee on Natural  
Resources &  
Environment  
Committee on Science, Space,  
& Technology  
Committee on Transportation

### SENATE COMMITTEES

Committee on Administration  
of Justice  
Committee on Agriculture  
Committee on Commerce &  
Housing  
Committee on Community and  
Regional Development  
Committee on Education,  
Training, Employment &  
Social Services  
Committee on Energy  
Committee on General  
Government  
Committee on Health  
Committee on Income Security  
Committee on International  
Affairs  
Committee on National  
Defense  
Committee on Natural  
Resources & Environment  
Committee on Science, Space,  
& Technology  
Committee on Transportation

**COMMITTEES BASED ON BUDGET RESOLUTION USING  
BUDGET FUNCTION TERMS AS JURISDICTIONAL LANGUAGE**

**Committee on Administration of Justice**

1. FBI.
2. Drug Enforcement Assistance.
3. Immigration and Naturalization Service.
4. Legal Services Corporation.
5. U.S. Attorneys and Justice Department.
6. U.S. Customs Service.
7. U.S. Prisons.
8. Bureau of Alcohol, Tobacco and Firearms.
9. Federal Judiciary System.
10. Juvenile Justice and Delinquency Program.
11. U.S. Secret Service.
12. Equal Employment Opportunity.
13. State and Local Drug Law Enforcement Grants.

**Committee on Agriculture**

1. Direct Assistance and Loans to Food and Fiber Producers.
2. Market Information and Food Safety Services.
3. Agricultural Research.
4. Commodity Credit Corporation.
5. Federal Crop Insurance.
6. Farm Loans.
7. Extension Programs.
8. Consumer Protection, Marketing, and Regulatory Programs.
9. Farm Export Promotion.
10. Animal and Plant Disease Prevention.

**Committee on Commerce and Housing**

1. Deposit Insurance.
2. Rural Housing Loans.
3. Mortgage Insurance Programs.
4. Nonprofit Mail Subsidy.
5. Small Business Assistance.
6. Regulation of Commerce and Financial Markets.
7. U.S. Census.
8. Small Business.

**Committee on Community and Regional Development**

1. Community Development Block Grants.
2. Rental Rehabilitation Grants and Loans.
3. Economic Development Assistance.
4. Appalachian Regional Commission.
5. Rural Development Grants and Loans.
6. TVA Economic Development Programs.
7. Indian Assistance Programs.
8. FEMA Disaster Relief and SBA Disaster Loans.
9. National Flood and Crime Insurance.

**Committee on Education, Training Employment and Social Services**

1. Elementary and Secondary Education.
2. Occupational, Vocational, and Adult Education.
3. Higher Education Student Assistance.
4. Higher and Continuing Assistance.
5. Job Training Partnership Act.
6. Grants to States for Social and Child Welfare Services.
7. Human Development Services.
8. National Endowment for the Arts.
9. National Endowment for the Humanities.

**Committee on Energy**

1. Energy Supply.
2. Energy Research, Development, and Demonstration.
3. Uranium Enrichment.
4. Energy Conservation.
5. Solar Conservation.
6. Strategic Petroleum Reserve.
7. Nuclear Regulation.
8. TVA Power Program.
9. DOE Power Marketing Administrations.
10. Rural Electrification.
11. Naval Petroleum Reserves.

**Committee on General Government**

1. Legislative Branch Activities.
2. Executive Office of the President.
3. General Services Administration.
4. Office of Personnel Management.



**Committee on Health**

1. Medicaid.
2. Health Care.
3. Research into Causes and Cures of Diseases.
4. Promotion of Consumer and Occupational Health, and Safety.
5. Training Support for Health Workers and Researchers.
6. Food, Drug, and Product Safety and Inspection Programs.
7. Medicare.

**Committee on Income Security**

1. Retirement Programs and Disability Programs for Federal Civilian Workers, Military Personnel, Railroad Employees and Coal Miners.
2. Unemployment Compensation.
3. Food and Nutrition Assistance, including Food Stamps, Child Nutrition, WIC.
4. Housing and Homeless Assistance.
5. Energy Assistance.
6. AFDC.
7. Child Care.
8. Social Security.

**Committee on International Affairs**

1. Foreign Affairs Establishment, including Embassies and other Diplomatic Missions Abroad.
2. Sale of U.S. Commodities under Food for Peace Program.
3. Foreign Aid Loan and Technical Assistance Activities.
4. Security Assistance to Foreign Governments.
5. Foreign Military Sales (FMS) made through FMS trust fund.
6. U.S. contributions to the international financial institutions.
7. Export-Import Bank Activities.
8. Refugee Assistance.

**Committee on National Defense**

1. Pay and Benefit for Military and Civilian Personnel.
2. Research, development, testing, and evaluation.
3. Procurement of weapons systems and supporting equipment.
4. Military Construction.
5. Operations and Maintenance of Defense Establishment.
6. Development and Procurement of Nuclear Weapons and Naval Reactors.
7. Veterans measures generally.

**Committee on Natural Resources and Environment**

1. Conservation, Forestry, and Land Management Programs.
2. Water Resources Programs.
3. Clean Water Programs.
4. Environmental Protection.
5. Development, Regulation, and Conservation of Minerals.
6. Management and Preservation of the Public Lands.
7. Weather and Oceanic Research and Information Programs.

**Committee on Science, Space, and Technology**

1. Space Research and Technology.
2. General Science.
3. National Science Foundation.
4. High Energy and Nuclear Physics Research.
5. NASA.

**Committee on Transportation**

1. Ground Transportation, including Highways, Railroads and Mass Transportation; Highway and Bridge Construction, Repair and Safety.
2. Air Transportation, including Airways and Airports.
3. Water Transportation, including Maritime Subsidies and Coast Guard.

**COMMITTEES BASED ON THE BUDGET RESOLUTION USING  
CURRENT JURISDICTIONAL LANGUAGE**

**HOUSE COMMITTEES**

**Committee on Administration of Justice**

1. Judicial proceedings, civil and criminal generally.
2. Apportionment of Representatives.
3. Bankruptcy, mutiny, espionage, and counterfeiting.
4. Civil liberties.
5. Constitutional amendments.
6. Federal courts and judges.
7. Immigration and naturalization.
8. Interstate compacts generally.
9. Local courts in the Territories and possessions.
10. Measures relating to claims against the United States.
11. Meetings of Congress, attendance of Members and their acceptance of incompatible offices.
12. National penitentiaries.
13. Patent Office.
14. Patents, copyrights, and trademarks.
15. Presidential succession.
16. Protection of trade and commerce against unlawful restraints and monopolies.
17. Revision and codification of the Statutes of the United States.
18. State and territorial boundary lines.
19. Communist and other subversive activities affecting the internal security of the United States.

**Committee on Agriculture**

1. Adulteration of seeds, insect pests, and protection of birds and animals in forest reserves.
2. Agriculture generally.
3. Agricultural and industrial chemistry.
4. Agricultural colleges and experiment stations.
5. Agricultural economics and research.
6. Agricultural education extension services.
7. Agricultural production and marketing and stabilization of prices of agricultural products, and commodities (not including distribution outside of the United States).
8. Animal industry and diseases of animals.
9. Crop insurance and soil conservation.
10. Dairy industry.
11. Entomology and plant quarantine.
12. Extension of farm credit and farm security.

13. Forestry in general, and forest reserves other than those created from the public domain.
14. Human nutrition and home economics.
15. Inspection of livestock and meat products.
16. Plant industry, soils, and agricultural engineering.

### **Committee on Commerce & Housing**

1. Reciprocal trade agreements.
2. Banks and banking, including deposit insurance and Federal monetary policy.
3. Money and credit, including currency and the issuance of notes and redemption thereof; gold and silver, including the coinage thereof; valuation and revaluation of the dollar.
4. Public and private housing.
5. Economic stabilization, defense production, renegotiation, and control of the price of commodities, rents, and services.
6. International finance.
7. Financial aid to commerce and industry (other than transportation).
8. International Financial and Monetary organizations.
9. Interstate and foreign commerce generally.
10. Regulation of interstate and foreign communications.
11. Securities and exchange.
12. Consumer affairs and consumer protection.
13. Merchant marine generally.
14. Oceanography and Marine Affairs, including coastal zone management.
15. Coast Guard, including lifesaving service, lighthouses, lightships, and ocean derelicts.
16. Fisheries and wildlife, including research, restoration, refuges, and conservation.
17. Measures relating to the regulation of common carriers by water (except matters subject to the jurisdiction of the Interstate Commerce Commission) and to the inspection of merchant marine vessels, lights and signals, lifesaving equipment, and fire protection on such vessels.
18. Merchant marine officers and seamen.
19. Navigation and the laws relating thereto, including pilotage.
20. Panama Canal and the maintenance and operation of the Panama Canal, including the administration, sanitation, and government of the Canal Zone; and interoceanic canals generally.
21. Registering and licensing of vessels and small boats.
22. Rules and international arrangements to prevent collisions at sea.
23. United States Coast Guard and Merchant Marine Academies, and State Maritime Academies.
24. International fishing agreements. In addition to its legislative jurisdiction under the provisions of this paragraph (and its general oversight function under clause 2(b)(1), the committee shall have the special oversight function provided for in clause 3(g) with respect to the problems of small business.



25. Assistance to and protection of small business, including financial aid.
26. Participation of small-business enterprises in Federal procurement and Government contracts.

#### **Committee on Community and Regional Development**

1. Rural development.
2. Urban development.

#### **Committee on Education, Training, Employment & Social Services**

1. Measures relating to education or labor generally.
2. Child labor.
3. Columbia Institution for the Deaf, Dumb, and Blind; Howard University; Freedmen's Hospital.
4. Convict labor and the entry of goods made by convicts into interstate commerce.
5. Labor standards.
6. Labor statistics.
7. Mediation and arbitration of labor disputes.
8. Regulation or prevention of importation of foreign laborers under contract.
9. Food programs for children in schools.
10. United States Employees' Compensation Commission.
11. Vocational rehabilitation.
12. Wages and hours of labor.
13. Welfare of miners.
14. Work incentive programs.
15. Measures relating to the care and management of Indians, including the care and allotment of Indian lands and general and special measures relating to claims which are paid out of Indian funds.

#### **Committee on Energy**

1. Rural electrification.
2. National energy policy generally.
3. Measures relating to the exploration, production, storage, supply, marketing, pricing, and regulation of energy resources, including all fossil fuels, solar energy, and other unconventional or renewable energy resources.
4. Measures relating to the conservation of energy resources.
5. Measures relating to the commercial application of energy technology.
6. Measures relating to energy information generally.
7. Measures relating to (A) the generation and marketing of power (except by federally chartered or Federal regional power marketing authorities), (B) the reliability and interstate transmission of, and ratemaking for, all power, and (C) the siting of generation facilities;

except the installation of interconnections between Government waterpower projects.

8. Interstate energy compacts.
9. Measures relating to general management of the Department of Energy, and the management and all functions of the Federal Energy Regulatory Commission.
10. Water power.

#### Committee on General Government

1. Appropriation of the revenue for the support of the Government.
2. Rescissions of appropriations contained in appropriations Acts.
3. Transfers of unexpected balances.
4. The amount of new spending authority (as described in the Congressional Budget Act of 1974) which is to be effective for a fiscal year, including bills and resolutions (reported by other committees) which provide new spending authority and are referred to the committee under clause 4(a).
5. All measures relating to the municipal affairs of the District of Columbia in general, other than appropriations therefor, unless otherwise specified.
6. Budget and accounting measures, other than appropriations.
7. The overall economy and efficiency of Government operations and activities, including Federal procurement.
8. Reorganizations in the executive branch of the Government.
9. Intergovernmental relationships between the United States and the States and municipalities, and general revenue sharing.
10. National archives.
11. Measures providing for off-budget treatment of government programs.
12. Appropriations from the contingent fund.
13. Auditing and settling of all accounts which may be charged to the contingent fund.
14. Employment of persons by the House, including clerks for Members and committees, and reporters of debates.
15. Except as provided in clause 1(p)(4), matters relating to the Library of Congress, and the House Library; statuary and pictures; acceptance or purchase of works of art for the Capitol; the Botanic Gardens; management of the Library of Congress; purchase of books and manuscripts; erection of monuments to the memory of individuals.
16. Except as provided in clause 1(p)(4), matters relating to the Smithsonian Institution and the incorporation of similar institutions.
17. Expenditure of contingent funds of the House.
18. Matters relating to printing and correction of the Congressional Record.
19. Measures relating to accounts of the House generally.
20. Measures relating to assignment of office space for Members and committees.
21. Measures relating to the disposition of useless executive papers.

22. Measures relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; Federal agencies or programs.
23. Census and the collection of statistics generally.
24. All Federal Civil Service, including intergovernmental personnel.
25. Postal-savings banks.
26. Postal service generally, including the railway mail service, and measures relating to ocean mail and pneumatic-tube service; but excluding post roads.
27. Status of officers and employees of the United States, including their compensation, classification and retirement.
28. Hatch Act.
29. Holidays and celebrations.
30. Population and demography.
31. Measures relating to the Capitol Building and the Senate and House Office Buildings.
32. Measures relating generally to the insular possessions of the United States, except those affecting the revenue and appropriations.
33. Relations of the United States with the Indians and the Indian tribes.
34. Customs, collection districts, and ports of entry and delivery.
35. Revenue measures generally.
36. Revenue measures relating to the insular possessions.
37. The bond debt of the United States (subject to the last sentence of clause 4(g) of this rule).
38. The deposit of public money.
39. Transportation of dutiable goods.
40. Tax exempt foundations and charitable trusts.

#### **Committee on Health**

1. Saint Elizabeths hospital.
2. [Indian health care]
3. Public health and quarantine.
4. Health and health facilities, except health care supported by payroll deductions.
5. Biomedical research and development.

#### **Committee on Income Security**

1. National social security, except (A) health care and facilities programs that are supported from general revenues as opposed to payroll deductions and (B) work incentive programs.
2. [Pension guarantees]

**Committee on International Affairs**

1. Relations of the United States with foreign nations generally.
2. Acquisition of land and buildings for embassies and legations in foreign countries.
3. Establishment of boundary lines between the United States and foreign nations.
4. Foreign loans.
5. International conferences and congresses.
6. Intervention abroad and declarations of war.
7. Measures relating to the diplomatic service and the State Department.
8. Measures to foster commercial intercourse with foreign nations and to safeguard American business interest abroad.
9. Neutrality.
10. Protection of American citizens abroad and expatriation.
11. The American National Red Cross.
12. United Nations Organizations.
13. Measures relating to international economic policy.
14. Export controls, including nonproliferation of nuclear technology and nuclear hardware.
15. International commodity agreements (other than those involving sugar), including all agreements for cooperation in the export of nuclear technology and nuclear hardware.
16. Trading with the enemy.
17. International education.

**Committee on National Defense**

1. Common defense generally.
2. The Department of Defense generally, including the Departments of the Army, Navy, and Air Force generally.
3. Ammunition depots; forts; arsenals; Army, Navy and Air Force reservations and establishments.
4. Conservation, development, and use of naval petroleum and oil shale reserves.
5. Pay, promotion, retirement, and other benefits and privileges of members of the armed forces.
6. Scientific research and development in support of the armed services.
7. Selective service.
8. Size and composition of the Army, Navy, and Air Force.
9. Soldiers' and sailors' homes.
10. Strategic and critical materials necessary for the common defense.
11. Military applications of nuclear energy.

**Committee on Natural Resources & Environment**

1. Fisheries and wildlife, including research, restoration, refuges, and conservation.



2. Forest reserves and national parks created from the public domain.
3. Forfeiture of land grants and alien ownership, including alien ownership of mineral lands.
4. Geological Survey.
5. Interstate compacts relating to apportionment of waters for irrigation purposes.
6. Irrigation and reclamation, including water supply for reclamation projects, and easements of public lands for irrigation projects, and acquisition of private lands when necessary to complete irrigation projects.
7. Military parks and battlefields; national cemeteries administered by the Secretary of the Interior, and parks within the District of Columbia.
8. Mineral land laws and claims and entries thereunder.
9. Mineral resources of the public lands.
10. Mining interests generally.
11. Mining schools and experimental stations.
12. Petroleum conservation on the public lands and conservation of the radium supply in the United States.
13. Preservation of prehistoric ruins and objects of interests on the public domain.
14. Public lands, generally, including entry, easements, and grazing thereon.
15. Oil and other pollution of navigable waters.

#### **Committee on Science, Space, & Technology**

1. Astronautical research and development, including resources, personnel, equipment, and facilities.
2. Bureau of Standards, standardization of weights and measures and the metric system.
3. National Aeronautics and Space Administration.
4. National Aeronautics and Space Council.
5. National Science Foundation.
6. Outer space, including exploration and control thereof.
7. Science scholarships.
8. Scientific research, development, and demonstration, and projects therefor.
9. Civil aviation research and development.
10. Environmental research and development.
11. All energy research, development, and demonstration, and projects therefor, and all federally owned or operated nonmilitary energy laboratories.
12. National Weather Service.

**Committee on Transportation**

1. Inland waterways.
2. Railroads, including railroad labor, railroad retirement and unemployment, except revenue measures related thereto.
3. Flood control and improvement of rivers and harbors.
4. Measures relating to the construction or maintenance of roads and post roads.
5. Measures relating to the construction or reconstruction, maintenance, and care of the buildings and grounds of the Botanic Gardens, the Library of Congress, and the Smithsonian Institution.
6. Measures relating to the purchase of sites and construction of post offices, customhouses, Federal courthouses, and Government buildings within the District of Columbia.
7. Public buildings and occupied or improved grounds of the United States generally.
8. Public works for the benefit of navigation, including bridges and dams (other than international bridges and dams).
9. Transportation, including civil aviation except railroads, railroad labor and pensions.
10. Roads and safety thereof.
11. Water transportation subject to the jurisdiction of the Interstate Commerce Commission.
12. Related transportation regulatory agencies, except (A) the Interstate Commerce Commission as it relates to railroads; (B) Federal Railroad Administration; and (C) Amtrak.

**SENATE COMMITTEES****Committee on Administration of Justice**

1. Bankruptcy, mutiny, espionage, and counterfeiting.
2. Civil liberties.
3. Constitutional amendments.
4. Federal courts and judges.
5. Holidays and celebrations.
6. Immigration and naturalization.
7. Judicial proceedings, civil and criminal, generally.
8. Local courts in the territories and possessions.
9. Measures relating to claims against the United States.
10. National penitentiaries.
11. Revision and codification of the statutes of the United States.

**Committee on Agriculture**

1. Agricultural economics and research.
2. Agricultural extension services and experiment stations.
3. Agricultural production, marketing, and stabilization of prices.
4. Agriculture and agricultural commodities.
5. Animal industry and diseases.
6. Crop insurance and soil conservation.
7. Farm credit and farm security.
8. Food from fresh waters.
9. Forestry, and forest reserves and wilderness areas other than those created from the public domain.
10. Home economics.
11. Inspection of livestock, meat, and agricultural products.
12. Pests and pesticides.
13. Plant industry, soils, and agricultural engineering.
14. Rural development, rural electrification, and water-sheds.
15. Marine fisheries.

**Committee on Commerce & Housing**

1. Banks, banking, and financial institutions.
2. Control of prices of commodities, rents, and services.
3. Deposit insurance.
4. Economic stabilization and defense production.
5. Export and foreign trade promotion.
6. Export controls.
7. Federal monetary policy, including Federal Reserve System.
8. Financial aid to commerce and industry, including small business.
9. Issuance and redemption of notes.
10. Money and credit, including currency and coinage.

11. Public and private housing (including veterans' housing).
12. Coast Guard.
13. Coastal zone management.
14. Communications.
15. Interstate commerce.
16. Merchant marine and navigation.
17. Sports.
18. Standards and measurement.
19. Public works, bridges, and dams.
20. Reciprocal trade agreements.
21. Patent Office.
22. Patents, copyrights, and trademarks.
23. Protection of trade and commerce against unlawful restraints and monopolies.

#### **Committee on Community and Regional Development**

1. Urban development.
2. Regional economic development.

#### **Committee on Education, Training, Employment & Social Services**

1. Food stamp programs.
2. Human nutrition.
3. School nutrition programs.
4. Regulation of consumer products and services, including testing related to toxic substances, other than pesticides, and except for credit, financial services, and housing.
5. All proposed legislation, messages, petitions, memorials, and other matters relating to Indian affairs shall be referred to the select committee.
6. Apportionment of Representatives.
7. Government information.
8. Interstate compacts generally.
9. State and territorial boundary lines.
10. Measures relating to education, labor, and public welfare.
11. Aging.
12. Agricultural colleges.
13. Arts and humanities.
14. Child labor.
15. Convict labor and the entry of goods made by convicts into interstate commerce.
16. Domestic activities of the American National Red Cross.
17. Equal employment opportunity.
18. Gallaudet College, Howard University.
19. Handicapped individuals.
20. Labor standards and labor statistics.
21. Mediation and arbitration of labor disputes.



22. Occupational safety, including the welfare of miners.
23. Railway labor.
24. Regulation of foreign laborers.
25. Student loans.
26. Wages and hours of labor.

### **Committee on Energy**

1. Coal production, distribution, and utilization.
2. Energy policy.
3. Energy regulation and conservation.
4. Energy related aspects of deepwater ports.
5. Energy research and development.
6. Extraction of minerals from oceans and Outer Continental Shelf lands.
7. Hydroelectric power, irrigation, and reclamation.
8. Mining education and research.
9. Mining, mineral lands, mining claims, and mineral conservation.
10. Naval petroleum reserves in Alaska.
11. Nonmilitary development of nuclear energy.
12. Oil and gas production and distribution.
13. Solar energy systems.

### **Committee on General Government**

1. Appropriation of the revenue for the support of the Government, except as provided in subparagraph (e) [Budget Committee].
2. Rescission of appropriations contained in appropriation Acts (referred to in section 105 of title 1, United States Code).
3. The amount of new spending authority described in section 401(c)(2) (A) and (B) of the Congressional Budget Act of 1974 which is to be effective for a fiscal year.
4. New spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 provided in bills and resolutions referred to the committee under section 401(b)(2) of that Act (but subject to the provisions of section 401(b)(3) of that Act).
5. The chairman is authorized to appoint and employ experts to obtain data and information and examine the books, documents, papers, reports, or other records of any department, agency, or establishment of the Federal Government.
6. Renegotiation of Government contracts.
7. Territorial possessions of the United States, including trusteeships.
8. Public buildings and improved grounds of the United States generally, including Federal buildings in the District of Columbia.
9. Bonded debt of the United States, except as provided in the Congressional Budget Act of 1974.
10. Customs, collection districts, and ports of entry and delivery.
11. Deposit of public moneys.
12. General revenue sharing.

13. Revenue measures generally, except as provided in the Congressional Budget Act of 1974.
14. Revenue measures relating to the insular possessions.
15. Tariffs and import quotas, and matters related thereto.
16. Transportation of dutiable goods.
17. Archives of the United States.
18. Budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974.
19. Census and collection of statistics, including economic and social statistics.
20. Congressional organization, except for any part of the matter that amends the rules or orders of the Senate.
21. Federal Civil Service.
22. Government information.
23. Intergovernmental relations.
24. Municipal affairs of the District of Columbia, except appropriations therefore.
25. Organization and management of United States nuclear export policy.
26. Organization and reorganization of the executive branch of the Government.
27. Postal Service.
28. Status of officers and employees of the United States, including their classification, compensation, and benefits.
29. Administration of the Senate Office Buildings and the Senate wing of the Capitol, including the assignment of office space.
30. Congressional organization relative to rules and procedures, and Senate rules and regulations, including floor and gallery rules.
31. Corrupt practices.
32. Credentials and qualifications of Members of the Senate, contested elections, and acceptance of incompatible offices.
33. Federal elections generally, including the election of the President, Vice President, and Member of the Congress.
34. Government Printing Office, and the printing and correction of the Congressional Record, as well as those matters provided for under rule XI.
35. Meetings of the Congress and attendance of Members.
36. Payment of money out of the contingent fund of the Senate or creating a charge upon the same (except that any resolution relating to substantive matter within the jurisdiction of any other standing committee of the Senate shall be first referred to such committee).
37. Presidential succession.
38. Purchase of books and manuscripts and erection of monuments to the memory of individuals.
39. Senate Library and statuary, art, and pictures in the Capitol and Senate Office Buildings.
40. Services to the Senate, including the Senate restaurant.
41. United States Capitol, and congressional office buildings, the Library of Congress, the Smithsonian Institution (and the incorporation of similar institutions), and the Botanic Gardens.

42. It shall be the duty of the committee to conduct a study of any and all matters pertaining to problems and opportunities of Indians, including but not limited to Indian land management and trust responsibilities, Indian education, health, special services, and loan programs, and Indian claims against the United States.
43. Reviews, on a continuing basis, the committee system of the Senate and the Standing Rules and other rules of the Senate related thereto.
44. Provides for the awarding of service pins or emblems to Members, officers, and employees of the Senate, and promulgates regulations governing the awarding of such pins or emblems.
45. Grants approval of the acceptance, retention, and wearing by a Member, officer, or employee of the Senate of a decoration tendered by a foreign government in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious service.
46. Makes a continuing study of the organization and operation of the Congress of the United States and shall recommend improvements in such organization and operation with a view toward strengthening the Congress, simplifying its operations, improving its relationships with other branches of the United States Government, and enabling it better to meet its responsibilities under the Constitution of the United States; and
47. Identifies any court proceeding or action which, in the opinion of the Committee, is of vital interest to the Congress as a constitutionally established institution of the Federal Government and call such proceeding or action to the attention of the Senate.
48. All concurrent resolutions on the budget (as defined in section 3(a)(4) of the Congressional Budget Act of 1974) and all other matters required to be referred to that committee under titles III and IV of that Act.
49. To report that matters required to be reported by it under titles III and IV of the Congressional Budget Act of 1974; to make continuing studies of the effect on budget outlays of relevant existing and proposed legislation and to report the results of such studies to the Senate on a recurring basis;
50. To request and evaluate continuing studies of tax expenditures, to devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and to report the results of such studies to the Senate on a recurring basis; and
51. To review, on a continuing basis, the conduct by the Congressional Budget Office of its functions and duties.

Such committee shall have the duty of:

- (A) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;

- (B) studying the efficiency, economy, and effectiveness of all agencies and departments of the Government;
- (C) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and
- (D) studying the intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

### **Committee on Health**

- 1. Nursing home construction.
- 2. Health.
- 3. Biomedical research and development.
- 4. Saint Elizabeths Hospital.
- 5. Public health.
- 6. [Occupational health].

### **Committee on Income Security**

- 1. Private pension plans.
- 2. [Railroad retirement systems].
- 3. National Social Security.

### **Committee on International Affairs**

- 1. Acquisition of land and buildings for embassies and legations in foreign countries.
- 2. Boundaries of the United States.
- 3. Diplomatic service.
- 4. Foreign economic, military, technical, and humanitarian assistance.
- 5. Foreign loans.
- 6. International activities of the American National Red Cross and the International Committee of the Red Cross.
- 7. International aspects of nuclear energy, including nuclear transfer policy.
- 8. International conferences and congresses.
- 9. International law as it relates to foreign policy.
- 10. International Monetary Fund and other international organizations established primarily for international monetary purposes (except that, at the request of the Committee on Commerce & Housing, any proposed legislation relating to such subjects reported by the Committee on International Relations shall be referred to the Committee on Commerce & Housing).
- 11. Intervention abroad and declarations of war.



12. Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.
13. National security and international aspects of trusteeships of the United States.
14. Oceans and international environmental and scientific affairs as they relate to foreign policy.
15. Protection of United States citizens abroad and expatriation.
16. Relations of the United States with foreign nations generally.
17. Treaties and executive agreements, except reciprocal trade agreements.
18. United Nations and its affiliated organizations.
19. World Bank group, the regional development banks, and other international organizations established primarily for development assistance purposes.
20. The Central Intelligence Agency and the Director of Central Intelligence.
21. Intelligence activities of all other departments and agencies of the Government, including, but not limited to, the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of Defense; the Department of State; the Department of Justice; and the Department of the Treasury.
22. The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.
23. Authorizations for appropriations, both direct and indirect, for the following:
  - (A) The Central Intelligence Agency and Director of Central Intelligence.
  - (B) The Defense Intelligence Agency.
  - (C) The National Security Agency.
  - (D) The intelligence activities of other agencies and subdivisions of the Department of Defense.
  - (E) The intelligence activities of the Department of State.
  - (F) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.
  - (G) Any department, agency, or subdivision which is the successor to any agency named in clause (A), (B), or (C); and the activities of any department, agency, or subdivision which is the successor to any department, agency, bureau, or subdivision named in the clause (D), (E), or (F) to the extent that the activities of such successor department, agency, or subdivision are activities described in clause (D), (E), or (F).

24. Any proposed legislation reported by the committee, except any legislation involving the Central Intelligence Agency or the Director of Central Intelligence containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee for its consideration of such matter and be reported to the Senate by such standing committee within thirty days after the day on which such proposed legislation is referred to such standing committee and vice versa.
25. The committee shall make regular and periodic reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies of the United States.
26. The committee shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Such reports shall review the intelligence activities of the agency or department concerned and the intelligence activities of foreign countries directed at the United States or its interest. An unclassified version of each report may be made available to the public at the discretion of the select committee.

#### **Committee on National Defense**

1. Aeronautical and space activities peculiar to or primarily associated with the development of weapons systems or military operations.
2. Common defense.
3. Department of Defense, the Department of the Army, the Department of the Navy, and the Department of the Air Force, generally.
4. Maintenance and operation of the Panama Canal, including administration, sanitation, and government of the Canal Zone.
5. Military research and development.
6. National security aspects of nuclear energy.
7. Naval petroleum reserves, except those in Alaska.
8. Pay, promotion, retirement, and other benefits and privileges of members of the Armed Forces, including overseas education of civilian and military dependents.
9. Selective service system.
10. Strategic and critical materials necessary for the common defense.

#### **Committee on Natural Resources & Environment**

1. National parks, recreation areas, wilderness areas, wild and scenic rivers, historical sites, military parks and battlefields, and on the public domain, preservation of prehistoric ruins and objects of interest.
2. Public lands and forests, including farming and grazing thereon, and mineral extraction therefrom.
3. Air pollution.
4. Environmental aspects of Outer Continental Shelf lands.

5. Environmental effects of toxic substances, other than pesticides.
6. Environmental policy.
7. Environmental research and development.
8. Fisheries and wildlife.
9. Flood control and improvement of rivers and harbors, including environmental aspects of deepwater ports.
10. Noise pollution.
11. Nonmilitary environmental regulation and control of nuclear energy.
12. Ocean dumping.
13. Solid waste disposal and recycling.
14. Water pollution.
15. Water resources.

#### **Committee on Science, Space, & Technology**

1. Nonmilitary aeronautical and space sciences.
2. Science, engineering, and technology research and development and policy.

#### **Committee on Transportation**

1. Urban mass transit.
2. Highway safety.
3. Inland waterways, except construction.
4. Marine and ocean navigation, safety, and transportation, including navigational aspects of deepwater ports.
5. Oceans, weather, and atmospheric activities.
6. Panama Canal and interoceanic canals generally, except as provided in subparagraph (c) [Armed Services].
7. Regulation of interstate common carriers, including railroads, buses, trucks, vessels, pipelines, and civil aviation.
8. Transportation.
9. Transportation and commerce aspects of Outer Continental Shelf lands.
10. Construction and maintenance of highways.

**CHANGES WITHIN CURRENT COMMITTEE STRUCTURE**



## JURISDICTIONAL CHANGES AMONG CURRENT HOUSE AND SENATE COMMITTEES

### Underlying Philosophy

1. Retains, wherever possible, current number of committees in House and Senate.
2. Transfers individual items of jurisdiction from one panel to another in interest of consolidating jurisdiction in fewer committees. (Where jurisdiction term is moved from one committee to another, the term appears in brackets ( [ ] ) in the jurisdiction of the recipient committee.
3. Would require no change in current House and Senate rules regarding committee assignments, or service limits on subcommittees.

### HOUSE COMMITTEES

Committee on Agriculture  
 Committee on Appropriations  
 Committee on Armed Services  
 Committee on Banking, Finance and  
   Urban Affairs  
 Committee on the Budget  
 Committee on the District of Columbia  
 Committee on Education and Labor  
 Committee on Energy and Commerce  
 Committee on Foreign Affairs  
 Committee on Government Operations  
 Committee on House Administration  
 Committee on the Judiciary  
 Committee on Merchant Marine and  
   Fisheries  
 Committee on Post Office and Civil  
   Service  
 Committee on Natural Resources  
 Committee on Public Works and  
   Transportation  
 Committee on Rules  
 Committee on Science, Space, and  
   Technology  
 Committee on Small Business  
 Committee on Standards of Official  
   Conduct  
 Committee on Veterans' Affairs  
 Committee on Ways and Means  
 Permanent Select Committee on  
   Intelligence

### SENATE COMMITTEES

Committee on Agriculture, Nutrition,  
   and Forestry  
 Committee on Appropriations  
 Committee on Armed Services  
 Committee on Banking, Housing, and  
   Urban Affairs  
 Committee on the Budget  
 Committee on Commerce, Science, and  
   Transportation  
 Committee on Energy and Natural  
   Resources  
 Committee on Environment and  
   Public Works  
 Committee on Finance  
 Committee on Foreign Relations  
 Committee on Governmental Affairs  
 Committee on Indian Affairs  
 Committee on the Judiciary  
 Committee on Labor and Human  
   Resources  
 Committee on Rules and  
   Administration  
 Committee on Small Business  
 Committee on Veterans' Affairs  
 Special Committee on Aging  
 Select Committee on Ethics  
 Select Committee on Intelligence

Joint Economic Committee  
 Joint Committee on the Library  
 Joint Committee on Printing  
 Joint Committee on Taxation

## JURISDICTIONAL CHANGES AMONG CURRENT HOUSE AND SENATE COMMITTEES

### HOUSE COMMITTEES

#### Committee on Agriculture

1. Adulteration of seeds, insect pests, and protection of birds and animals in forest reserves.
2. Agriculture generally.
3. Agricultural and industrial chemistry.
4. Agricultural colleges and experiment stations.
5. Agricultural economics and research.
6. Agricultural education extension services.
7. Agricultural production and marketing and stabilization of prices of agricultural products, and commodities (not including distribution outside of the United States).
8. Animal industry and diseases of animals.
9. Crop insurance and soil conservation.
10. Dairy industry.
11. Entomology and plant quarantine.
12. Extension of farm credit and farm security.
13. Forestry in general, and forest reserves other than those created from the public domain.
14. Human nutrition and home economics.
15. Inspection of livestock and meat products.
16. Plant industry, soils, and agricultural engineering.
17. Rural electrification.
18. Rural development.

#### Committee on Appropriations

The committee shall include separate headings for "Rescissions" and "Transfers of Unexpended Balances" in any bill or resolution as reported from the committee under its jurisdiction specified in subparagraph (2) or (3), with all proposed rescissions and proposed transfers listed therein; and shall include a separate section with respect to such rescissions or transfers in the accompanying committee report. In addition to its jurisdiction under the preceding provisions of this paragraph, the committee shall have the fiscal oversight function provided for in clause 2(b)(3) and the budget hearing function provided for in clause 4(a).

1. Appropriation of the revenue for the support of the Government.
2. Rescissions of appropriations contained in appropriations Acts.
3. Transfers of unexpected balances.
4. The amount of new spending authority (as described in the Congressional Budget Act of 1974) which is to be effective for a fiscal

year, including bills and resolutions (reported by other committees) which provide new spending authority and are referred to the committee under clause 4(a).

#### **Committee on Armed Services**

1. Common defense generally.
2. The Department of Defense generally, including the Departments of the Army, Navy, and Air Force generally.
3. Ammunition depots; forts; arsenals; Army, Navy and Air Force reservations and establishments.
4. Conservation, development, and use of naval petroleum and oil shale reserves.
5. Pay, promotion, retirement, and other benefits and privileges of members of the armed forces.
6. Scientific research and development in support of the armed services.
7. Selective service.
8. Size and composition of the Army, Navy, and Air Force.
9. Soldiers' and sailors' homes.
10. Strategic and critical materials necessary for the common defense.
11. Military applications of nuclear energy.

#### **Committee on Banking, Finance and Urban Affairs**

1. Banks and banking, including deposit insurance and Federal monetary policy.
2. Money and credit, including currency and the issuance of notes and redemption thereof; gold and silver, including the coinage thereof; valuation and revaluation of the dollar.
3. Urban development.
4. Public and private housing.
5. Economic stabilization, defense production, renegotiation, and control of the price of commodities, rents, and services.
6. International finance.
7. Financial aid to commerce and industry (other than transportation).
8. International Financial and Monetary organizations.
9. [Securities and exchanges.]

#### **Committee on the Budget**

1. All concurrent resolutions on the budget (as defined in section 3(a)(4) of the Congressional Budget Act of 1974) and other matters required to be referred to the committee under titles III and IV of that Act, and any resolution pursuant to section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.
2. The committee shall have the duty—

- (A) to report the matters required to be reported by it under titles III and IV of the Congressional Budget Act of 1974;
- (B) to make continuing studies of the effect on budget outlays of relevant existing and proposed legislation and to report the results of such studies to the House on a recurring basis;
- (C) to request and evaluate continuing studies of tax expenditures, to devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and to report the results of such studies to the House on a recurring basis; and
- (D) to review, on a continuing basis, the conduct by the Congressional Budget Office of its functions and duties.

#### **Committee on the District of Columbia**

- 1. All measures relating to the municipal affairs of the District of Columbia in general, other than appropriations therefor, including—
- 2. Adulteration of foods and drugs.
- 3. Incorporation and organization of societies.
- 4. Insurance, executors, administrators, wills, and divorce.
- 5. Municipal code and amendments to the criminal and corporation laws.
- 6. Municipal and juvenile courts.
- 7. Public health and safety, sanitation, and quarantine regulations.
- 8. Regulation of sale of intoxicating liquors.
- 9. Taxes and tax sales.
- 10. Saint Elizabeths hospital.

#### **Committee on Education and Labor**

- 1. Measures relating to education or labor generally.
- 2. Child labor.
- 3. Columbia Institution for the Deaf, Dumb, and Blind; Howard University; Freedmen's Hospital.
- 4. Convict labor and the entry of goods made by convicts into interstate commerce.
- 5. Labor standards.
- 6. Labor statistics.
- 7. Mediation and arbitration of labor disputes.
- 8. Regulation or prevention of importation of foreign laborers under contract.
- 9. Food programs for children in schools.
- 10. United States Employees' Compensation Commission.
- 11. Vocational rehabilitation.
- 12. Wages and hours of labor.
- 13. Work incentive programs.
- 14. [Science scholarships.]



**Committee on Energy and Commerce**

1. Interstate and foreign commerce generally.
2. National energy policy generally.
3. Measures relating to the exploration, production, storage, supply, marketing, pricing, and regulation of energy resources, including all fossil fuels, solar energy, and other unconventional or renewable energy resources.
4. Measures relating to the conservation of energy resources.
5. Measures relating to the commercial application of energy technology.
6. Measures relating to energy information generally.
7. Measures relating to (A) the generation and marketing of power (except by federally chartered or Federal regional power marketing authorities), (B) the reliability and interstate transmission of, and ratemaking for, all power, and (C) the siting of generation facilities; except the installation of interconnections between Government waterpower projects.
8. Interstate energy compacts.
9. Measures relating to general management of the Department of Energy, and the management and all functions of the Federal Energy Regulatory Commission.
10. Inland waterways.
11. Regulation of interstate and foreign communications.
12. Consumer affairs and consumer protection.
13. Travel and tourism.
14. Public health and quarantine.
15. Health and health facilities, except health care supported by payroll deductions.
16. Biomedical research and development.

**Committee on Foreign Affairs**

1. Relations of the United States with foreign nations generally.
2. Acquisition of land and buildings for embassies and legations in foreign countries.
3. Establishment of boundary lines between the United States and foreign nations.
4. Foreign loans.
5. International conferences and congresses.
6. Intervention abroad and declarations of war.
7. Measures relating to the diplomatic service.
8. Measures to foster commercial intercourse with foreign nations and to safeguard American business interest abroad.
9. Neutrality.
10. Protection of American citizens abroad and expatriation.
11. The American National Red Cross.
12. United Nations Organizations.
13. Measures relating to international economic policy.

14. Export controls, including nonproliferation of nuclear technology and nuclear hardware.
15. International commodity agreements (other than those involving sugar), including all agreements for cooperation in the export of nuclear technology and nuclear hardware.
16. Trading with the enemy.
17. International education.

#### **Committee on Government Operations**

1. Budget and accounting measures, other than appropriations.
2. The overall economy and efficiency of Government operations and activities, including Federal procurement.
3. Reorganizations in the executive branch of the Government.
4. Intergovernmental relationships between the United States and the States and municipalities, and general revenue sharing.
5. National archives.
6. Measures providing for off-budget treatment of Federal agencies or programs.

#### **Committee on House Administration**

1. Appropriations from the contingent fund.
2. Auditing and settling of all accounts which may be charged to the contingent fund.
3. Employment of persons by the House, including clerks for Members and committees, and reporters of debates.
4. Except as provided in clause 1(p)(4), matters relating to the Library of Congress, and the House Library; statuary and pictures; acceptance or purchase of works of art for the Capitol; the Botanic Gardens; management of the Library of Congress; purchase of books and manuscripts; erection of monuments to the memory of individuals.
5. Except as provided in clause 1(p)(4), matters relating to the Smithsonian Institution and the incorporation of similar institutions.
6. Expenditure of contingent funds of the House.
7. Matters relating to printing and correction of the Congressional Record.
8. Measures relating to accounts of the House generally.
9. Measures relating to assignment of office space for Members and committees.
10. Measures relating to the disposition of useless executive papers.
11. Measures relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; credentials and qualifications; and Federal elections generally.
12. Measures relating to services to the House, including the House Restaurant, parking facilities and administration of the House Office Buildings and of the House wing of the Capitol.
13. Measures relating to the travel of Members of the House.

14. Measures relating to the raising, reporting and use of campaign contributions for candidates for office of Representative in the House of Representatives and of Resident Commissioner to the United States from Puerto Rico.
15. Measures relating to the compensation, retirement and other benefits of the Members, officers, and employees of the Congress.

#### **Committee on the Judiciary**

1. Judicial proceedings, civil and criminal generally.
2. Apportionment of Representatives.
3. Bankruptcy, mutiny, espionage, and counterfeiting.
4. Civil liberties.
5. Constitutional amendments.
6. Federal courts and judges.
7. Immigration and naturalization.
8. Interstate compacts generally.
9. Local courts in the Territories and possessions.
10. Measures relating to claims against the United States.
11. Meetings of Congress, attendance of Members and their acceptance of incompatible offices.
12. National penitentiaries.
13. Patent Office.
14. Patents, copyrights, and trademarks.
15. Presidential succession.
16. Protection of trade and commerce against unlawful restraints and monopolies.
17. Revision and codification of the Statutes of the United States.
18. State and territorial boundary lines.
19. Communist and other subversive activities affecting the internal security of the United States.

#### **Committee on Merchant Marine and Fisheries**

1. Merchant marine generally.
2. Oceanography and Marine Affairs, including coastal zone management.
3. Coast Guard, including lifesaving service, lighthouses, lightships, and ocean derelicts.
4. Fisheries and wildlife, including research, restoration, refuges, and conservation.
5. Measures relating to the regulation of common carriers by water (except matters subject to the jurisdiction of the Interstate Commerce Commission) and to the inspection of merchant marine vessels, lights and signals, lifesaving equipment, and fire protection on such vessels.
6. Merchant marine officers and seamen.
7. Navigation and the laws relating thereto, including pilotage.

8. Panama Canal and the maintenance and operation of the Panama Canal, including the administration, sanitation, and government of the Canal Zone; and interoceanic canals generally.
9. Registering and licensing of vessels and small boats.
10. Rules and international arrangements to prevent collisions at sea.
11. United States Coast Guard and Merchant Marine Academies, and State Maritime Academies.
12. International fishing agreements.

#### **Committee on Post Office and Civil Service**

1. Census and the collection of statistics generally.
2. All Federal Civil Service, including intergovernmental personnel.
3. Postal-savings banks.
4. Postal service generally, including the railway mail service, and measures relating to ocean mail and pneumatic-tube service; but excluding post roads.
5. Status of officers and employees of the United States, including their compensation, classification and retirement.
6. Hatch Act.
7. Holidays and celebrations.
8. Population and demography.

#### **Committee on Natural Resources**

1. Forest reserves and national parks created from the public domain.
2. Forfeiture of land grants and alien ownership, including alien ownership of mineral lands.
3. Geological Survey.
4. Interstate compacts relating to apportionment of waters for irrigation purposes.
5. Irrigation and reclamation, including water supply for reclamation projects, and easements of public lands for irrigation projects, and acquisition of private lands when necessary to complete irrigation projects.
6. Measures relating to the care and management of Indians, including the care and allotment of Indian lands and general and special measures relating to claims which are paid out of Indian funds.
7. Measures relating generally to the insular possessions of the United States, except those affecting the revenue and appropriations.
8. Military parks and battlefields; national cemeteries administered by the Secretary of the Interior, and parks within the District of Columbia.
9. Mineral land laws and claims and entries thereunder.
10. Mineral resources of the public lands.
11. Mining interests generally.
12. Mining schools and experimental stations.



13. Petroleum conservation on the public lands and conservation of the radium supply in the United States.
14. Preservation of prehistoric ruins and objects of interest on the public domain.
15. Public lands, generally, including entry, easements, and grazing thereon.
16. Relations of the United States with the Indians and the Indian tribes.
17. Regulation of the domestic nuclear energy industry, including regulation of research and development reactors and nuclear regulatory research.
18. [Welfare of miners.]

#### **Committee on Public Works and Transportation**

1. Flood control and improvement of rivers and harbors.
2. Measures relating to the Capitol Building and the Senate and House Office Buildings.
3. Measures relating to the construction or maintenance of roads and post roads, other than appropriations therefor; but it shall not be in order for any bill providing general legislation in relation to roads to contain any provision for any specific road, nor for any bill in relation to a specific road to embrace a provision in relation to any other specific road.
4. Measures relating to the construction or reconstruction, maintenance, and care of the buildings and grounds of the Botanic Gardens, the Library of Congress, and the Smithsonian Institution.
5. Measures relating to the purchase of sites and construction of post offices, customhouses, Federal courthouses, and Government buildings within the District of Columbia.
6. Oil and other pollution of navigable waters.
7. Public buildings and occupied or improved grounds of the United States generally.
8. Public works for the benefit of navigation, including bridges and dams (other than international bridges and dams).
9. Water power.
10. Transportation, including civil aviation except railroads, railroad labor and pensions.
11. Roads and safety thereof.
12. Water transportation subject to the jurisdiction of the Interstate Commerce Commission.
13. Related transportation regulatory agencies, except (A) the Interstate Commerce Commission as it relates to railroads; (B) Federal Railroad Administration; and (C) Amtrak.
14. [Civil aviation research and development]
15. [Railroads, including railroad labor, railroad retirement and unemployment, except revenue measures related thereto.]

**Committee on Rules**

1. The rules and joint rules (other than rules or joint rules relating to the Code of Official Conduct), and order of business of the House.
2. Emergency waivers (under the Congressional Budget Act of 1974) of the required reporting date for bills and resolutions authorizing new budget authority.
3. Recesses and final adjournment of Congress.

**Committee on Science, Space, and Technology**

1. Astronautical research and development, including resources, personnel, equipment, and facilities.
2. Bureau of Standards, standardization of weights and measures and the metric system.
3. National Aeronautics and Space Administration.
4. National Aeronautics and Space Council.
5. National Science Foundation.
6. Outer space, including exploration and control thereof.
7. Scientific research, development, and demonstration, and projects therefor.
8. Environmental research and development.
9. All energy research, development, and demonstration, and projects therefor, and all federally owned or operated nonmilitary energy laboratories.
10. National Weather Service.

**Committee on Small Business**

1. Assistance to and protection of small business, including financial aid.
2. Participation of small-business enterprises in Federal procurement and Government contracts.

**Committee on Standards of Official Conduct**

In addition to its legislative jurisdiction under the provisions of this paragraph (and its general oversight function under clause 2(b)(1), the committee shall have the functions with respect to recommendations, studies, investigations, and reports which are provided for in clause 4(e), and the functions designated in title I of the Ethics in Government Act of 1978. Also, has duties related to the House Rules on the Code of Conduct (Rule XLIII) and on Financial Disclosure (Rule XLIV).

1. Measures relating to the Code of Official Conduct.

**Committee on Veterans' Affairs**

1. Veterans' measures generally.
2. Cemeteries of the United States in which veterans of any war or conflict are or may be buried, whether in the United States or abroad, except cemeteries administered by the Secretary of the Interior.
3. Compensation, vocational rehabilitation, and education of veterans.
4. Life insurance issued by the Government on account of service in the Armed Service.
5. Pensions of all the wars of the United States, general and special.
6. Readjustment of servicemen to civil life.
7. Soldiers' and sailors' civil relief.
8. Veterans' hospitals, medical care, and treatment of veterans.

**Committee on Ways and Means**

1. Customs, collection districts, and ports of entry and delivery.
2. Reciprocal trade agreements.
3. Revenue measures generally.
4. Revenue measures relating to the insular possessions.
5. The bond debt of the United States (subject to the last sentence of clause 4(g) of this rule).
6. The deposit of public money.
7. Transportation of dutiable goods.
8. Tax exempt foundations and charitable trusts.
9. National social security, except (A) health care and facilities programs that are supported from general revenues as opposed to payroll deductions and (B) work incentive programs.

**HOUSE SELECT COMMITTEES****Permanent Select Committee on Intelligence**

There shall be referred to the select committee all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

- (1) The Central Intelligence Agency and Director of Central Intelligence.
- (2) Intelligence and intelligence-related activities of all other departments and agencies of the Government, including, but not limited to, the intelligence and intelligence related activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of State; the Department of Justice; and the Department of the Treasury.
- (3) The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence or intelligence-related activities.
- (4) Authorizations for appropriations, both direct and indirect, for the following:
  - (A) The Central Intelligence Agency and Director of Central Intelligence.
  - (B) The Defense Intelligence Agency.
  - (C) The National Security Agency.
  - (D) The intelligence and intelligence-related activities of other agencies and subdivisions of the Department of Defense.
  - (E) The intelligence and intelligence-related activities of the Department of State.
  - (F) The intelligence and intelligence-related activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.
  - (G) Any department, agency, or subdivision which is the successor to any agency named in subdivision (A), (B), or (C); and the activities of any department, agency, or subdivision which is the successor to any department, agency, bureau, or subdivision named in subdivision (D), (E), or (F), to the extent that the activities of such successor department, agency, or subdivision are activities described in subdivision (D), (E), or (F).



## JOINT COMMITTEES

### Joint Economic Committee

A. It shall be the function of the joint committee—

- (1) to make a continuing study of matter relating to the Economic Report;
- (2) to study means of coordinating programs in order to further the policy of this chapter; and
- (3) as a guide to the several committee of the Congress dealing with legislation relating to the Economic Report, not later than March 1 of each year (beginning with the year 1947) to file a report with the Senate and the House of Representatives containing its findings and recommendations with respect to each of the main recommendations made by the President in the Economic Report, and from time to time to make such other reports and recommendations to the Senate and House of Representatives as it deems advisable.
- (4) The Joint Economic Committee is authorized to issue a monthly publication entitled "Economic Indicators".

### Joint Committee on the Library

The Committee considers proposals concerning the management and expansion of the Library of Congress, the development and maintenance of the Botanic Gardens, the receipt of gifts for the benefit of the Library, and certain matters relating to placing of statues and other works of art in the Capitol (2 U.S.C. 132b).

### Joint Committee on Printing

1. Oversees the Government Printing Office and the laws and rules governing the operations of GPO.
2. The Committee adopts and employees measure necessary to remedy inefficiencies or waste in the public printing, binding, and distribution of Government publications. It has control of the arrangement and style of the Congressional Record (44 U.S.C. 901-910). The Joint Committee on Printing is authorized and directed to provide for printing in the Daily Record the legislative program for the day, together with a list of congressional committee meetings and hearings, and the place of meeting and subject matter, and to cause a brief resume of congressional activities for the previous day to be incorporated in the Record, together with an index of its contents. Such data shall be prepared under the supervision of the Secretary of the Senate and the Clerk of the House of Representatives, respectively.

**Joint Committee on Taxation**

1. The Joint Committee investigates the operation and effects of the Federal system of internal revenue taxation.
2. May obtain and inspect income returns.
3. It is the duty of the Joint Committee—
  - (A) To investigate—
    - (1) the operation and effects of the Federal system of internal revenue taxes;
    - (2) the administration of such taxes by the Internal Revenue Service or any executive department, establishment, or agency charged with their administration; and
    - (3) other aspects of our system of taxes as it may deem necessary.
    - (4) measures and methods for the simplification of taxes, particularly the income tax; and
  - (B) To publish, from time to time, for public examination and analysis, proposed measures and methods for the simplification of such taxes.
  - (C) To report, from time to time, to the Committee on Finance and the Committee on Ways and Means, and, in its discretion, to the Senate or the House of Representatives, or both, the results of its investigations, together with such recommendations as it may deem advisable.
  - (D) For duties of the Joint Committee relating to refunds of income and estate taxes, see section 6405. Aug. 16, 1954, ch. 736, 68A Stat. 927.

**SENATE COMMITTEES****Committee on Agriculture, Nutrition, and Forestry**

1. Agricultural economics and research.
2. Agricultural extension services and experiment stations.
3. Agricultural production, marketing, and stabilization of prices.
4. Agriculture and agricultural commodities.
5. Animal industry and diseases.
6. Crop insurance and soil conservation.
7. Farm credit and farm security.
8. Food from fresh waters.
9. Food stamp programs.
10. Forestry, and forest reserves and wilderness areas other than those created from the public domain.
11. Home economics.
12. Human nutrition.
13. Inspection of livestock, meat, and agricultural products.
14. Pests and pesticides.
15. Plant industry, soils, and agricultural engineering.
16. Rural development, rural electrification, and water-sheds.
17. School nutrition programs.

**Committee on Appropriations**

1. Appropriation of the revenue for the support of the Government, except as provided in subparagraph (e) [Budget Committee].
2. Rescission of appropriations contained in appropriation Acts (referred to in section 105 of title 1, United States Code).
3. The amount of new spending authority described in section 401(c)(2) (A) and (B) of the Congressional Budget Act of 1974 which is to be effective for a fiscal year.
4. New spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 provided in bills and resolutions referred to the committee under section 401(b)(2) of that Act (but subject to the provisions of section 401(b)(3) of that Act).
5. For the purpose of obtaining and laying factual data and information before the Senate Committee on Appropriations, the chairman is authorized to appoint and employ experts to obtain data and information and examine the books, documents, papers, reports, or other records of any department, agency, or establishment of the Federal Government.

**Committee on Armed Services**

1. Aeronautical and space activities peculiar to or primarily associated with the development of weapons systems or military operations.

2. Common defense.
3. Department of Defense, the Department of the Army, the Department of the Navy, and the Department of the Air Force, generally.
4. Maintenance and operation of the Panama Canal, including administration, sanitation, and government of the Canal Zone.
5. Military research and development.
6. National security aspects of nuclear energy.
7. Naval petroleum reserves, except those in Alaska.
8. Pay, promotion, retirement, and other benefits and privileges of members of the Armed Forces, including overseas education of civilian and military dependents.
9. Selective service system.
10. Strategic and critical materials necessary for the common defense.

#### **Committee on Banking, Housing, and Urban Affairs**

1. Banks, banking, and financial institutions.
2. Control of prices of commodities, rents, and services.
3. Deposit insurance.
4. Economic stabilization and defense production.
5. Export and foreign trade promotion.
6. Export controls.
7. Federal monetary policy, including Federal Reserve System.
8. Financial aid to commerce and industry.
9. Issuance and redemption of notes.
10. Money and credit, including currency and coinage.
11. Nursing home construction.
12. Public and private housing (including veterans' housing).
13. Renegotiation of Government contracts.
14. Urban development and urban mass transit.

#### **Committee on the Budget**

All concurrent resolutions on the budget (as defined in section 3(a)(4) of the Congressional Budget Act of 1974) and all other matters required to be referred to that committee under titles III and IV of that Act.

To report that matters required to be reported by it under titles III and IV of the Congressional Budget Act of 1974;

To make continuing studies of the effect on budget outlays of relevant existing and proposed legislation and to report the results of such studies to the Senate on a recurring basis;

To request and evaluate continuing studies of tax expenditures, to devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and to report the results of such studies to the Senate on a recurring basis; and



To review, on a continuing basis, the conduct by the Congressional Budget Office of its functions and duties.

#### **Committee on Commerce, Science, and Transportation**

1. Coast Guard.
2. Coastal zone management.
3. Communications.
4. Highway safety.
5. Inland waterways, except construction.
6. Interstate commerce.
7. Marine and ocean navigation, safety, and transportation, including navigational aspects of deepwater ports.
8. Marine fisheries.
9. Merchant marine and navigation.
10. Nonmilitary aeronautical and space sciences.
11. Oceans, weather, and atmospheric activities.
12. Panama Canal and interoceanic canals generally, except as provided in subparagraph (c) [Armed Services].
13. Regulation of consumer products and services, including testing related to toxic substances, other than pesticides, and except for credit, financial services, and housing.
14. Regulation of interstate common carriers, including railroads, buses, trucks, vessels, pipelines, and civil aviation.
15. Science, engineering, and technology research and development and policy.
16. Sports.
17. Standards and measurement.
18. Transportation.
19. Transportation and commerce aspects of Outer Continental Shelf lands.

#### **Committee on Energy and Natural Resources**

1. Coal production, distribution, and utilization.
2. Energy policy.
3. Energy regulation and conservation.
4. Energy related aspects of deepwater ports.
5. Energy research and development.
6. Extraction of minerals from oceans and Outer Continental Shelf lands.
7. Hydroelectric power, irrigation, and reclamation.
8. Mining education and research.
9. Mining, mineral lands, mining claims, and mineral conservation.
10. National parks, recreation areas, wilderness areas, wild and scenic rivers, historical sites, military parks and battlefields, and on the public domain, preservation of prehistoric ruins and objects of interest.
11. Naval petroleum reserves in Alaska.
12. Nonmilitary development of nuclear energy.

13. Oil and gas production and distribution.
14. Public lands and forests, including farming and grazing thereon, and mineral extraction therefrom.
15. Solar energy systems.
16. Territorial possessions of the United States, including trusteeships.
17. Local courts in the territories and possessions.

#### **Committee on Environment and Public Works**

1. Air pollution.
2. Construction and maintenance of highways.
3. Environmental aspects of Outer Continental Shelf lands.
4. Environmental effects of toxic substances, other than pesticides.
5. Environmental policy.
6. Environmental research and development.
7. Fisheries and wildlife.
8. Flood control and improvement of rivers and harbors, including environmental aspects of deepwater ports.
9. Noise pollution.
10. Nonmilitary environmental regulation and control of nuclear energy.
11. Ocean dumping.
12. Public buildings and improved grounds of the United States generally, including Federal buildings in the District of Columbia.
13. Public works, bridges, and dams.
14. Regional economic development.
15. Solid waste disposal and recycling.
16. Water pollution.
17. Water resources.

#### **Committee on Finance**

1. Bonded debt of the United States, except as provided in the Congressional Budget Act of 1974.
2. Customs, collection districts, and ports of entry and delivery.
3. Deposit of public moneys.
4. General revenue sharing.
5. Health programs under the Social Security Act and health programs financed by a specific tax or trust fund.
6. National social security.
7. Reciprocal trade agreements.
8. Revenue measures generally, except as provided in the Congressional Budget Act of 1974.
9. Revenue measures relating to the insular possessions.
10. Tariffs and import quotas, and matters related thereto.
11. Transportation of dutiable goods.

**Committee on Foreign Relations**

1. Acquisition of land and buildings for embassies and legations in foreign countries.
2. Boundaries of the United States.
3. Diplomatic service.
4. Foreign economic, military, technical, and humanitarian assistance.
5. Foreign loans.
6. International activities of the American National Red Cross and the International Committee of the Red Cross.
7. International aspects of nuclear energy, including nuclear transfer policy.
8. International conferences and congresses.
9. International law as it relates to foreign policy.
10. International Monetary Fund and other international organizations established primarily for international monetary purposes (except that, at the request of the Committee on Banking, Housing, and Urban Affairs, any proposed legislation relating to such subjects reported by the Committee on Foreign Relations shall be referred to the Committee on Banking, Housing and Urban Affairs).
11. Intervention abroad and declarations of war.
12. Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.
13. National security and international aspects of trusteeships of the United States.
14. Oceans and international environmental and scientific affairs as they relate to foreign policy.
15. Protection of United States citizens abroad and expatriation.
16. Relations of the United States with foreign nations generally.
17. Treaties and executive agreements, except reciprocal trade agreements.
18. United Nations and its affiliated organizations.
19. World Bank group, the regional development banks, and other international organizations established primarily for development assistance purposes.

**Committee on Governmental Affairs**

1. Archives of the United States.
2. Budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974.
3. Census and collection of statistics, including economic and social statistics.
4. Congressional organization, except for any part of the matter that amends the rules or orders of the Senate.
5. Federal Civil Service.
6. Government information.
7. Intergovernmental relations.
8. Municipal affairs of the District of Columbia, except appropriations therefor.

9. Organization and management of United States nuclear export policy.
10. Organization and reorganization of the executive branch of the Government.
11. Postal Service.
12. Status of officers and employees of the United States, including their classification, compensation, and benefits.

Such committee shall have the duty of:

(A) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;

(B) studying the efficiency, economy, and effectiveness of all agencies and departments of the Government;

(C) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(D) studying the intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

#### **Committee on Indian Affairs**

1. All proposed legislation, messages, petitions, memorials, and other matters relating to Indian affairs shall be referred to the select committee.
2. It shall be the duty of the select committee to conduct a study of any and all matters pertaining to problems and opportunities of Indians, including but not limited to Indian land management and trust responsibilities, Indian education, health, special services, and loan programs, and Indian claims against the United States.
3. The select committee shall from time to time report to the Senate, by bill or otherwise, its recommendations with respect to matters referred to the select committee or otherwise within its jurisdiction.

#### **Committee on the Judiciary**

1. Apportionment of Representatives.
2. Bankruptcy, mutiny, espionage, and counterfeiting.
3. Civil liberties.
4. Constitutional amendments.
5. Federal courts and judges.
6. Government information.
7. Holidays and celebrations.
8. Immigration and naturalization.



9. Interstate compacts generally.
10. Judicial proceedings, civil and criminal, generally.
11. Measures relating to claims against the United States.
12. National penitentiaries.
13. Patent Office.
14. Patents, copyrights, and trademarks.
15. Protection of trade and commerce against unlawful restraints and monopolies.
16. Revision and codification of the statutes of the United States.
17. State and territorial boundary lines.

#### **Committee on Labor and Human Resources**

1. Measures relating to education, labor, health, and public welfare.
2. Aging.
3. Agricultural colleges.
4. Arts and humanities.
5. Biomedical research and development.
6. Child labor.
7. Convict labor and the entry of goods made by convicts into interstate commerce.
8. Domestic activities of the American National Red Cross.
9. Equal employment opportunity.
10. Gallaudet College, Howard University, and Saint Elizabeths Hospital.
11. Handicapped individuals.
12. Labor standards and labor statistics.
13. Mediation and arbitration of labor disputes.
14. Occupational safety and health, including the welfare of miners.
15. Private pension plans.
16. Public health.
17. Railway labor and retirement.
18. Regulation of foreign laborers.
19. Student loans.
20. Wages and hours of labor.

#### **Committee on Rules and Administration**

- A. Reviews, on a continuing basis, the committee system of the Senate and the Standing Rules and other rules of the Senate related thereto.
- B. Provides for the awarding of service pins or emblems to Members, officers, and employees of the Senate, and promulgates regulations governing the awarding of such pins or emblems.
- C. Grants approval of the acceptance, retention, and wearing by a Member, officer, or employee of the Senate of a decoration tendered by a foreign government in recognition of active field service in time of

combat operations or awarded for other outstanding or unusually meritorious service.

- D. Makes a continuing study of the organization and operation of the Congress of the United States and shall recommend improvements in such organization and operation with a view toward strengthening the Congress, simplifying its operations, improving its relationships with other branches of the United States Government, and enabling it better to meet its responsibilities under the Constitution of the United States; and
- E. Identifies any court proceeding or action which, in the opinion of the Committee, is of vital interest to the Congress as a constitutionally established institution of the Federal Government and call such proceeding or action to the attention of the Senate.
- F. Also is responsible for:
  - 1. Administration of the Senate Office Buildings and the Senate wing of the Capitol, including the assignment of office space.
  - 2. Congressional organization relative to rules and procedures, and Senate rules and regulations, including floor and gallery rules.
  - 3. Corrupt practices.
  - 4. Credentials and qualifications of Members of the Senate, contested elections, and acceptance of incompatible offices.
  - 5. Federal elections generally, including the election of the President, Vice President, and Member of the Congress.
  - 6. Government Printing Office, and the printing and correction of the Congressional Record, as well as those matters provided for under rule XI.
  - 7. Meetings of the Congress and attendance of Members.
  - 8. Payment of money out of the contingent fund of the Senate or creating a charge upon the same (except that any resolution relating to substantive matter within the jurisdiction of any other standing committee of the Senate shall be first referred to such committee).
  - 9. Presidential succession.
  - 10. Purchase of books and manuscripts and erection of monuments to the memory of individuals.
  - 11. Senate Library and statuary, art, and pictures in the Capitol and Senate Office Buildings.
  - 12. Services to the Senate, including the Senate restaurant.
  - 13. United States Capitol, and congressional office buildings, the Library of Congress, the Smithsonian Institution (and the incorporation of similar institutions), and the Botanic Gardens.

**Committee on Small Business**

Matters relating to the Small Business Administration (subject to review and reporting by other Standing Committee with jurisdiction over the functions of SBA and vice versa). Study and survey by means of research and investigation all problems of American small business enterprises.

**Committee on Veterans' Affairs**

1. Compensation of veterans.
2. Life insurance issued by the Government on account of service in the Armed Forces.
3. National cemeteries.
4. Pensions of all wars of the United States, general and special.
5. Readjustment of servicemen to civil life.
6. Soldiers' and sailors' civil relief.
7. Veterans' hospitals, medical care and treatment of veterans.
8. Veterans' measures generally.
9. Vocational rehabilitation and education of veterans.

**Special Committee on Aging**

Conducts a continuing study of any and all matters pertaining to problems and opportunities of older people, including, but not limited to, problems and opportunities of maintaining health, of assuring adequate income, of finding employment, of engaging in productive and rewarding activity, of securing proper housing, and when necessary of obtaining care or assistance; and reports to the Senate the results of its studies together with such recommendations as it considers appropriate.

**Select Committee on Ethics**

1. Receives complaints and investigates allegations of improper conduct which may reflect upon the Senate, violations of law, violations of the Senate Code of Official Conduct, and violations of rules and regulations of the Senate, relating to the conduct of individuals in the performance of their duties as Members of the Senate, or as officers or employees of the Senate, and to make appropriate findings of fact and conclusions with respect thereto.
2. Recommends to the Senate by report or resolution by a majority vote of the full committee disciplinary action (including, but not limited to, in the case of a Member: censure, expulsion, or recommendation to the appropriate party conference regarding such Member's seniority or positions of responsibility; and, in the case of an officer or employee: suspension or dismissal) to be taken with respect to such violations which the Select Committee shall determine, after according to the

individuals concerned due notice and opportunity for hearing, to have occurred.

3. Recommends to the Senate, by report or resolution, such additional rules or regulations as the Select Committee shall determine to be necessary or desirable to insure proper standards of conduct by Members of the Senate, and by officers or employees of the Senate, in the performance of their duties and the discharge of their responsibilities.
4. Reports violation by a majority vote of the full committee of any law to the proper Federal and State authorities.
5. Transmits to the Senate its recommendation as to any legislative measures which it may consider to be necessary for the effective discharge of its duties.
6. Prescribes and publishes such regulations as it feels are necessary to implement the Senate Code of Official Conduct.
7. Issues interpretative rulings explaining and clarifying the application of any law, the Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction.
8. Renders advisory opinions, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nominations for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.
9. In its discretion, may render an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.
10. The advisory opinions issued by the Select Committee shall be compiled, indexed, reproduced, and made available on a periodic basis.
11. Is responsible for administering the reporting requirement of Title I of the Ethics in Government Act of 1978 are assigned to the Select Committee on Ethics.

*Investigative Procedures.* When the Select Committee receives a sworn complaint against a Member or officer of the Senate, it shall promptly conduct an initial review of that complaint. If as a result of an initial review the Select Committee determines by a recorded vote that there is not such substantial



credible evidence, the Select Committee shall report such determination to the complainant and to the party charged, together with an explanation of the basis of such determination. If as a result of an initial review the Select Committee determines that a violation is inadvertent, technical, or otherwise of a de minimis nature, the Select Committee may attempt to correct or prevent such a violation by informal methods. If as the result of an initial review the Select Committee determines that [a] violation, if proven, is neither of a de minimis nature nor sufficiently serious to justify any of the penalties expressly referred to in subsection (a)(2), the Select Committee may propose a remedy it deems appropriate. If the matter is thereby resolved, a summary of the Select Committee's conclusions and the remedy proposed shall be filed as a public record with the Secretary of the Senate and a notice of such filing shall be printed in the Congressional Record. If as the result of an initial review the Select Committee determines that there is such substantial credible evidence, the Select Committee shall promptly conduct an investigation. Upon the conclusion of [any] investigation, the Select Committee shall report to the Senate, as soon as practicable, the results of such investigation together with its recommendations (if any) pursuant to subsection (a)(2). Upon the conclusion of any other investigation respecting the conduct of a Member or officer undertaken by the Select Committee, the Select Committee shall report to the Senate, as soon as practicable, the results of such investigation together with its recommendations (if any) pursuant to subsection (a)(2).

*Public Financial Disclosure.* The Select Committee on Ethics shall transmit a copy of each report filed with it under title I of the Ethics in Government Act of 1978 to the head of the employing office of the individual filing the report.

*Gifts.* No Member, officer, or employee of the Senate, or the spouse or dependent thereof, shall knowingly accept, directly or indirectly, any gift or gifts in any calendar year aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or \$250, whichever is greater, from any person, organization, or corporation unless, in an unusual case, a waiver is granted by the Select Committee on Ethics.

Notwithstanding the provisions of this rule, a Member, officer, or employee of the Senate may participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization if such participation is not in violation of any law and if the Select Committee on Ethics has determined that participation in such program by Members, officer, or employees of the Senate is in the interests of the Senate and the United States.

Any Member who accepts an invitation to participate in any such program shall notify the Select Committee in writing of his acceptance. A Member shall also notify the Select Committee in writing whenever he has permitted any officer or employee whom he supervises (within the meaning of paragraph 11 of rule XXXVII) to participate in any such program. The chairman of the Select Committee shall place in the Congressional Record a list of all individuals

participating; the supervisors of such individuals, where applicable, and the nature and itinerary of such program.

No Member, officer, or employees may accept funds in connection with participation in a program permitted under subparagraph (a) if such funds are not used for necessary food, lodging, transportation, and related expenses of the Member, officer, or employee.

If the Committee on Ethics of the Senate determines that there is reasonable basis to believe that a Member, officer, or employee of the Senate may have committed an ethics violation, the committee may request the Office of Special Investigations of the General Accounting Office to conduct fact finding and an investigation into the matter. The Office of Special Investigation shall promptly investigate the matter as directed by the committee.

The Select Committee shall provide guidance, assistance, advice and counsel, through advisory opinions or consultations, in connection with the mailing or contemplated mailing of franked mail. The select committee shall prescribe regulations governing the proper use of the franking privilege under those sections by such persons.

The Select Committee shall investigate complaints of potential or actual violations of Senate franking rules and render and enforce decisions thereon.

*Senate Employee Rights; Review by the Select Committee on Ethics.* The Select Committee on Ethics may review a decision under section 1207 of this title. Review under this section shall be based on the record of the hearing board. The Committee shall adopt and publish in the Congressional Record procedures for request for review under this section. Within the time for a decision under subsection (d) of this section, the Committee may remand a decision no more than one time to the hearing board for the purpose of supplementing the record or for further consideration. If the Committee does not remand under subsection (c) of this section, it shall transmit a written final decision to the Office for entry in the records of the Office. The decision of the hearing board shall then be deemed to be a final decision.

*Confidentiality of Employee Rights/Hearings.* Except as provided in subsection (d) of this section (1213), the hearings, deliberations, and decisions of the hearing board and the Select Committee on Ethics shall be confidential.

*Final Decision of Select Committee on Ethics.* The final decision of the Select Committee on Ethics under section 1208 of this title, shall be made public if the decision is in favor of the complaining Senate employee or if the decision reverses a decision of the hearing board which had been in favor of the employee. The Select Committee on Ethics may decide to release any other decision at its discretion, in the absence of a proceeding under section 1208 of this title, a decision of the hearing board that is favorable to the employee shall be made public.

*Release of records for judicial review.* The records and decisions of hearing boards, and the decisions of the Select Committee on Ethics, may be made public if required for the purpose of judicial review under section 1209 of this title.

*Authority to discipline.* Notwithstanding any provision of this chapter, including any provision authorizing orders for remedies to Senate employees to redress employment discrimination, the Select Committee on Ethics shall retain full power, in accordance with its authority under Senate Resolution 338, 88th Congress, as amended, with respect to disciplinary action against a Member, officer, or employee for a violation of Rule XLII.

### Select Committee on Intelligence

The select committee shall from time to time report to the Senate, by bill or otherwise, its recommendations with respect to matters referred to the select committee or otherwise within its jurisdiction, including:

1. The Central Intelligence Agency and the Director of Central Intelligence.
2. Intelligence activities of all other departments and agencies of the Government, including, but not limited to, the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of Defense; the Department of State; the Department of Justice; and the Department of the Treasury.
3. The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.
4. Authorizations for appropriations, both direct and indirect, for the following:
  - (A) The Central Intelligence Agency and Director of Central Intelligence.
  - (B) The Defense Intelligence Agency.
  - (C) The National Security Agency.
  - (D) The intelligence activities of other agencies and subdivisions of the Department of Defense.
  - (E) The intelligence activities of the Department of State.
  - (F) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.
  - (G) Any department, agency, or subdivision which is the successor to any agency named in clause (A), (B), or (C); and the activities of any department, agency, or subdivision which is the successor to any department, agency, bureau, or subdivision named in the clause (D), (E), or (F) to the extent that the activities of such successor department, agency, or subdivision are activities described in clause (D), (E), or (F).
5. Any proposed legislation reported by the select committee, except any legislation involving matters specified in clause (1) or (4)(A) of

subsection (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee for its consideration of such matter and be reported to the Senate by such standing committee within thirty days after the day on which such proposed legislation is referred to such standing committee and vice versa.

6. The select committee shall make regular and periodic reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies of the United States.
7. The select committee shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Such reports shall review the intelligence activities of the agency or department concerned and the intelligence activities of foreign countries directed at the United States or its interest. An unclassified version of each report may be made available to the public at the discretion of the select committee.



**FISCAL CONSOLIDATION COMMITTEE STRUCTURE**

## SINGLE FISCAL COMMITTEE IN HOUSE AND IN SENATE

### Underlying Philosophy

1. Consolidates revenue, appropriations, and budget process jurisdiction in one committee to emphasize link between expenditures and revenues.
2. Presents two options regarding revenue jurisdiction: to transfer revenue and related policy jurisdiction to proposed Fiscal Policy Committee, or to transfer only revenue issues to Fiscal Policy Committee while transferring policies or programs financed by a specific tax to the relevant program jurisdiction committees.
3. The Fiscal Policy Committee would clearly be the pre-eminent panel in both the House and Senate, with disproportionate influence and workload.

### HOUSE COMMITTEES

Committee on Agriculture  
 Committee on Armed Services  
 Committee on Banking,  
     Finance and Urban  
     Affairs  
 Committee on the District of  
     Columbia  
 Committee on Education and  
     Labor  
 Committee on Energy and  
     Commerce  
 Committee on Fiscal Policy  
 Committee on Foreign Affairs  
 Committee on Government  
     Operations  
 Committee on House  
     Administration  
 Committee on the Judiciary  
 Committee on Merchant  
     Marine and Fisheries  
 Committee on Natural  
     Resources  
 Committee on Post Office and  
     Civil Service  
 Committee on Public Works  
     and Transportation  
 Committee on Rules  
 Committee on Science, Space,  
     and Technology  
 Committee on Small Business  
 Committee on Standards of  
     Official Conduct  
 Committee on Veterans's  
     Affairs

### SENATE COMMITTEES

Committee on Agriculture,  
     Nutrition, and Forestry  
 Committee on Armed Services  
 Committee on Banking,  
     Housing, and Urban  
     Affairs  
 Committee on Commerce,  
     Science, and  
     Transportation  
 Committee on Energy and  
     Natural Resources  
 Committee on Environment  
     and Public Works  
 Committee on Fiscal Policy  
 Committee on Foreign  
     Relations  
 Committee on Governmental  
     Affairs  
 Committee on Indian Affairs  
 Committee on the Judiciary  
 Committee on Labor and  
     Human Resources  
 Committee on Rules and  
     Administration  
 Committee on Small Business  
 Committee on Veterans' Affairs  
 Special Committee on Aging  
 Select Committee on Ethics  
 Select Committee on  
     Intelligence

**SINGLE FISCAL COMMITTEE IN HOUSE AND IN SENATE****HOUSE COMMITTEES****Committee on Agriculture**

1. Adulteration of seeds, insect pests, and protection of birds and animals in forest reserves.
2. Agriculture generally.
3. Agricultural and industrial chemistry.
4. Agricultural colleges and experiment stations.
5. Agricultural economics and research.
6. Agricultural education extension services.
7. Agricultural production and marketing and stabilization of prices of agricultural products, and commodities (not including distribution outside of the United States).
8. Animal industry and diseases of animals.
9. Crop insurance and soil conservation.
10. Dairy industry.
11. Entomology and plant quarantine.
12. Extension of farm credit and farm security.
13. Forestry in general, and forest reserves other than those created from the public domain.
14. Human nutrition and home economics.
15. Inspection of livestock and meat products.
16. Plant industry, soils, and agricultural engineering.
17. Rural electrification.
18. Rural development.

**Committee on Armed Services**

1. Common defense generally.
2. The Department of Defense generally, including the Departments of the Army, Navy, and Air Force generally.
3. Ammunition depots; forts; arsenals; Army, Navy and Air Force reservations and establishments.
4. Conservation, development, and use of naval petroleum and oil shale reserves.
5. Pay, promotion, retirement, and other benefits and privileges of members of the armed forces.
6. Scientific research and development in support of the armed services.
7. Selective service.
8. Size and composition of the Army, Navy, and Air Force.
9. Soldiers' and sailors' homes.
10. Strategic and critical materials necessary for the common defense.
11. Military applications of nuclear energy.

**Committee on Banking, Finance and Urban Affairs**

1. Banks and banking, including deposit insurance and Federal monetary policy.
2. Money and credit, including currency and the issuance of notes and redemption thereof; gold and silver, including the coinage thereof; valuation and revaluation of the dollar.
3. Urban development.
4. Public and private housing.
5. Economic stabilization, defense production, renegotiation, and control of the price of commodities, rents, and services.
6. International finance.
7. Financial aid to commerce and industry (other than transportation).
8. International Financial and Monetary organizations.

**Committee on the District of Columbia**

1. All measures relating to the municipal affairs of the District of Columbia in general, other than appropriations therefor, including—
2. Adulteration of foods and drugs.
3. Incorporation and organization of societies.
4. Insurance, executors, administrators, wills, and divorce.
5. Municipal code and amendments to the criminal and corporation laws.
6. Municipal and juvenile courts.
7. Public health and safety, sanitation, and quarantine regulations.
8. Regulation of sale of intoxicating liquors.
9. Taxes and tax sales.
10. Saint Elizabeths hospital.

**Committee on Education and Labor**

1. Measures relating to education or labor generally.
2. Child labor.
3. Columbia Institution for the Deaf, Dumb, and Blind; Howard University; Freedmen's Hospital.
4. Convict labor and the entry of goods made by convicts into interstate commerce.
5. Labor standards.
6. Labor statistics.
7. Mediation and arbitration of labor disputes.
8. Regulation or prevention of importation of foreign laborers under contract.
9. Food programs for children in schools.
10. United States Employees' Compensation Commission.
11. Vocational rehabilitation.
12. Wages and hours of labor.
13. Welfare of miners.
14. Work incentive programs.



**Committee on Energy and Commerce**

1. Interstate and foreign commerce generally.
2. National energy policy generally.
3. Measures relating to the exploration, production, storage, supply, marketing, pricing, and regulation of energy resources, including all fossil fuels, solar energy, and other unconventional or renewable energy resources.
4. Measures relating to the conservation of energy resources.
5. Measures relating to the commercial application of energy technology.
6. Measures relating to energy information generally.
7. Measures relating to (A) the generation and marketing of power (except by federally chartered or Federal regional power marketing authorities), (B) the reliability and interstate transmission of, and ratemaking for, all power, and (C) the siting of generation facilities; except the installation of interconnections between Government waterpower projects.
8. Interstate energy compacts.
9. Measures relating to general management of the Department of Energy, and the management and all functions of the Federal Energy Regulatory Commission.
10. Inland waterways.
11. Railroads, including railroad labor, railroad retirement and unemployment, except revenue measures related thereto.
12. Regulation of interstate and foreign communications.
13. Securities and exchange.
14. Consumer affairs and consumer protection.
15. Travel and tourism.
16. Public health and quarantine.
17. Health and health facilities, except health care supported by payroll deductions.
18. Biomedical research and development.

**Committee on Fiscal Policy**

1. Appropriation of the revenue for the support of the Government.
2. The bonded debt of the United States.
3. Budget and accounting measures.
4. Concurrent resolutions on the budget (as defined in section 3(a)(4) of the Congressional Budget Act of 1974) and all other matters required to be referred to that committee under titles III and IV of that Act.
5. Customs, collection districts, and ports of entry and delivery.
6. The deposit of public money.
7. General revenue sharing.
8. New spending authority and issues related, including bills and resolutions containing new spending authority reported by other committees of the House.
9. Rescissions of appropriations contained in appropriations Acts.

10. Revenue measures generally, and revenue measures relating to the insular possessions.
11. Revenue measures related the Social Security Act as amended.
12. Revenue measures (including fees for services) directed to the support of a specific program, except that committees having legislative jurisdiction over the subject matter covered in such program shall have the authority to report, by bill or otherwise, on the non-revenue aspects of such program.
13. Revenue aspects of tariff acts and reciprocal trade agreements.
14. Transfers of unexpected balances.

#### **Committee on Foreign Affairs**

1. Relations of the United States with foreign nations generally.
2. Acquisition of land and buildings for embassies and legations in foreign countries.
3. Establishment of boundary lines between the United States and foreign nations.
4. Foreign loans.
5. International conferences and congresses.
6. Intervention abroad and declarations of war.
7. Measures relating to the diplomatic service.
8. Measures to foster commercial intercourse with foreign nations and to safeguard American business interest abroad.
9. Neutrality.
10. Protection of American citizens abroad and expatriation.
11. The American National Red Cross.
12. United Nations Organizations.
13. Measures relating to international economic policy.
14. Export controls, including nonproliferation of nuclear technology and nuclear hardware.
15. International commodity agreements (other than those involving sugar), including all agreements for cooperation in the export of nuclear technology and nuclear hardware.
16. Trading with the enemy.
17. International education.

#### **Committee on Government Operations**

1. Budget and accounting measures, other than appropriations.
2. The overall economy and efficiency of Government operations and activities, including Federal procurement.
3. Reorganizations in the executive branch of the Government.
4. Intergovernmental relationships between the United States and the States and municipalities, and general revenue sharing.
5. National archives.
6. Measures providing for off-budget treatment of Federal agencies or programs.

**Committee on House Administration**

1. Appropriations from the contingent fund.
2. Auditing and settling of all accounts which may be charged to the contingent fund.
3. Employment of persons by the House, including clerks for Members and committees, and reporters of debates.
4. Except as provided in clause 1(p)(4), matters relating to the Library of Congress, and the House Library; statuary and pictures; acceptance or purchase of works of art for the Capitol; the Botanic Gardens; management of the Library of Congress; purchase of books and manuscripts; erection of monuments to the memory of individuals.
5. Except as provided in clause 1(p)(4), matters relating to the Smithsonian Institution and the incorporation of similar institutions.
6. Expenditure of contingent funds of the House.
7. Matters relating to printing and correction of the Congressional Record.
8. Measures relating to accounts of the House generally.
9. Measures relating to assignment of office space for Members and committees.
10. Measures relating to the disposition of useless executive papers.
11. Measures relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; credentials and qualifications; and Federal elections generally.
12. Measures relating to services to the House, including the House Restaurant, parking facilities and administration of the House Office Buildings and of the House wing of the Capitol.
13. Measures relating to the travel of Members of the House.
14. Measures relating to the raising, reporting and use of campaign contributions for candidates for office of Representative in the House of Representatives and of Resident Commissioner to the United States from Puerto Rico.
15. Measures relating to the compensation, retirement and other benefits of the Members, officers, and employees of the Congress.

**Committee on the Judiciary**

1. Judicial proceedings, civil and criminal generally.
2. Apportionment of Representatives.
3. Bankruptcy, mutiny, espionage, and counterfeiting.
4. Civil liberties.
5. Constitutional amendments.
6. Federal courts and judges.
7. Immigration and naturalization.
8. Interstate compacts generally.
9. Local courts in the Territories and possessions.
10. Measures relating to claims against the United States.
11. Meetings of Congress, attendance of Members and their acceptance of incompatible offices.

12. National penitentiaries.
13. Patent Office.
14. Patents, copyrights, and trademarks.
15. Presidential succession.
16. Protection of trade and commerce against unlawful restraints and monopolies.
17. Revision and codification of the Statutes of the United States.
18. State and territorial boundary lines.
19. Communist and other subversive activities affecting the internal security of the United States.

#### **Committee on Merchant Marine and Fisheries**

1. Merchant marine generally.
2. Oceanography and Marine Affairs, including coastal zone management.
3. Coast Guard, including lifesaving service, lighthouses, lightships, and ocean derelicts.
4. Fisheries and wildlife, including research, restoration, refuges, and conservation.
5. Measures relating to the regulation of common carriers by water (except matters subject to the jurisdiction of the Interstate Commerce Commission) and to the inspection of merchant marine vessels, lights and signals, lifesaving equipment, and fire protection on such vessels.
6. Merchant marine officers and seamen.
7. Navigation and the laws relating thereto, including pilotage.
8. Panama Canal and the maintenance and operation of the Panama Canal, including the administration, sanitation, and government of the Canal Zone; and interoceanic canals generally.
9. Registering and licensing of vessels and small boats.
10. Rules and international arrangements to prevent collisions at sea.
11. United States Coast Guard and Merchant Marine Academies, and State Maritime Academies.
12. International fishing agreements.

#### **Committee on Natural Resources**

1. Forest reserves and national parks created from the public domain.
2. Forfeiture of land grants and alien ownership, including alien ownership of mineral lands.
3. Geological Survey.
4. Interstate compacts relating to apportionment of waters for irrigation purposes.
5. Irrigation and reclamation, including water supply for reclamation projects, and easements of public lands for irrigation projects, and acquisition of private lands when necessary to complete irrigation projects.



6. Measures relating to the care and management of Indians, including the care and allotment of Indian lands and general and special measures relating to claims which are paid out of Indian funds.
7. Measures relating generally to the insular possessions of the United States, except those affecting the revenue and appropriations.
8. Military parks and battlefields; national cemeteries administered by the Secretary of the Interior, and parks within the District of Columbia.
9. Mineral land laws and claims and entries thereunder.
10. Mineral resources of the public lands.
11. Mining interests generally.
12. Mining schools and experimental stations.
13. Petroleum conservation on the public lands and conservation of the radium supply in the United States.
14. Preservation of prehistoric ruins and objects of interests on the public domain.
15. Public lands, generally, including entry, easements, and grazing thereon.
16. Relations of the United States with the Indians and the Indian tribes.
17. Regulation of the domestic nuclear energy industry, including regulation of research and development reactors and nuclear regulatory research.

#### **Committee on Post Office and Civil Service**

1. Census and the collection of statistics generally.
2. All Federal Civil Service, including intergovernmental personnel.
3. Postal-savings banks.
4. Postal service generally, including the railway mail service, and measures relating to ocean mail and pneumatic-tube service; but excluding post roads.
5. Status of officers and employees of the United States, including their compensation, classification and retirement.
6. Hatch Act.
7. Holidays and celebrations.
8. Population and demography.

#### **Committee on Public Works and Transportation**

1. Flood control and improvement of rivers and harbors.
2. Measures relating to the Capitol Building and the Senate and House Office Buildings.
3. Measures relating to the construction or maintenance of roads and post roads, other than appropriations therefor; but it shall not be in order for any bill providing general legislation in relation to roads to contain any provision for any specific road, nor for any bill in relation to a specific road to embrace a provision in relation to any other specific road.

4. Measures relating to the construction or reconstruction, maintenance, and care of the buildings and grounds of the Botanic Gardens, the Library of Congress, and the Smithsonian Institution.
5. Measures relating to the purchase of sites and construction of post offices, customhouses, Federal courthouses, and Government buildings within the District of Columbia.
6. Oil and other pollution of navigable waters.
7. Public buildings and occupied or improved grounds of the United States generally.
8. Public works for the benefit of navigation, including bridges and dams (other than international bridges and dams).
9. Water power.
10. Transportation, including civil aviation except railroads, railroad labor and pensions.
11. Roads and safety thereof.
12. Water transportation subject to the jurisdiction of the Interstate Commerce Commission.
13. Related transportation regulatory agencies, except (A) the Interstate Commerce Commission as it relates to railroads; (B) Federal Railroad Administration; and (C) Amtrak.

#### **Committee on Rules**

1. The rules and joint rules (other than rules or joint rules relating to the Code of Official Conduct), and order of business of the House.
2. Emergency waivers (under the Congressional Budget Act of 1974) of the required reporting date for bills and resolutions authorizing new budget authority.
3. Recesses and final adjournment of Congress.

#### **Committee on Science, Space, and Technology**

1. Astronautical research and development, including resources, personnel, equipment, and facilities.
2. Bureau of Standards, standardization of weights and measures and the metric system.
3. National Aeronautics and Space Administration.
4. National Aeronautics and Space Council.
5. National Science Foundation.
6. Outer space, including exploration and control thereof.
7. Science scholarships.
8. Scientific research, development, and demonstration, and projects therefor.
9. Civil aviation research and development.
10. Environmental research and development.
11. All energy research, development, and demonstration, and projects therefor, and all federally owned or operated nonmilitary energy laboratories.

12. National Weather Service.

#### **Committee on Small Business**

1. Assistance to and protection of small business, including financial aid.
2. Participation of small-business enterprises in Federal procurement and Government contracts.

#### **Committee on Standards of Official Conduct**

1. Measures relating to the Code of Official Conduct.

#### **Committee on Veterans' Affairs**

1. Veterans' measures generally.
2. Cemeteries of the United States in which veterans of any war or conflict are or may be buried, whether in the United States or abroad, except cemeteries administered by the Secretary of the Interior.
3. Compensation, vocational rehabilitation, and education of veterans.
4. Life insurance issued by the Government on account of service in the Armed Service.
5. Pensions of all the wars of the United States, general and special.
6. Readjustment of servicemen to civil life.
7. Soldiers' and sailors' civil relief.
8. Veterans' hospitals, medical care, and treatment of veterans.

**SINGLE FISCAL COMMITTEE IN HOUSE AND IN SENATE****SENATE COMMITTEES****Committee on Agriculture, Nutrition, and Forestry**

1. Agricultural economics and research.
2. Agricultural extension services and experiment stations.
3. Agricultural production, marketing, and stabilization of prices.
4. Agriculture and agricultural commodities.
5. Animal industry and diseases.
6. Crop insurance and soil conservation.
7. Farm credit and farm security.
8. Food from fresh waters.
9. Food stamp programs.
10. Forestry, and forest reserves and wilderness areas other than those created from the public domain.
11. Home economics.
12. Human nutrition.
13. Inspection of livestock, meat, and agricultural products.
14. Pests and pesticides.
15. Plant industry, soils, and agricultural engineering.
16. Rural development, rural electrification, and water-sheds.
17. School nutrition programs.

**Committee on Armed Services**

1. Aeronautical and space activities peculiar to or primarily associated with the development of weapons systems or military operations.
2. Common defense.
3. Department of Defense, the Department of the Army, the Department of the Navy, and the Department of the Air Force, generally.
4. Maintenance and operation of the Panama Canal, including administration, sanitation, and government of the Canal Zone.
5. Military research and development.
6. National security aspects of nuclear energy.
7. Naval petroleum reserves, except those in Alaska.
8. Pay, promotion, retirement, and other benefits and privileges of members of the Armed Forces, including overseas education of civilian and military dependents.
9. Selective service system.
10. Strategic and critical materials necessary for the common defense.

**Committee on Banking, Housing, and Urban Affairs**

1. Banks, banking, and financial institutions.



2. Control of prices of commodities, rents, and services.
3. Deposit insurance.
4. Economic stabilization and defense production.
5. Export and foreign trade promotion.
6. Export controls.
7. Federal monetary policy, including Federal Reserve System.
8. Financial aid to commerce and industry.
9. Issuance and redemption of notes.
10. Money and credit, including currency and coinage.
11. Nursing home construction.
12. Public and private housing (including veterans' housing).
13. Renegotiation of Government contracts.
14. Urban development and urban mass transit.

#### **Committee on Commerce, Science, and Transportation**

1. Coast Guard.
2. Coastal zone management.
3. Communications.
4. Highway safety.
5. Inland waterways, except construction.
6. Interstate commerce.
7. Marine and ocean navigation, safety, and transportation, including navigational aspects of deepwater ports.
8. Marine fisheries.
9. Merchant marine and navigation.
10. Nonmilitary aeronautical and space sciences.
11. Oceans, weather, and atmospheric activities.
12. Panama Canal and interoceanic canals generally, except as provided in subparagraph (c) [Armed Services].
13. Regulation of consumer products and services, including testing related to toxic substances, other than pesticides, and except for credit, financial services, and housing.
14. Regulation of interstate common carriers, including railroads, buses, trucks, vessels, pipelines, and civil aviation.
15. Science, engineering, and technology research and development and policy.
16. Sports.
17. Standards and measurement.
18. Transportation.
19. Transportation and commerce aspects of Outer Continental Shelf lands.

#### **Committee on Energy and Natural Resources**

1. Coal production, distribution, and utilization.
2. Energy policy.
3. Energy regulation and conservation.

4. Energy related aspects of deepwater ports.
5. Energy research and development.
6. Extraction of minerals from oceans and Outer Continental Shelf lands.
7. Hydroelectric power, irrigation, and reclamation.
8. Mining education and research.
9. Mining, mineral lands, mining claims, and mineral conservation.
10. National parks, recreation areas, wilderness areas, wild and scenic rivers, historical sites, military parks and battlefields, and on the public domain, preservation of prehistoric ruins and objects of interest.
11. Naval petroleum reserves in Alaska.
12. Nonmilitary development of nuclear energy.
13. Oil and gas production and distribution.
14. Public lands and forests, including farming and grazing thereon, and mineral extraction therefrom.
15. Solar energy systems.
16. Territorial possessions of the United States, including trusteeships.

#### **Committee on Environment and Public Works**

1. Air pollution.
2. Construction and maintenance of highways.
3. Environmental aspects of Outer Continental Shelf lands.
4. Environmental effects of toxic substances, other than pesticides.
5. Environmental policy.
6. Environmental research and development.
7. Fisheries and wildlife.
8. Flood control and improvement of rivers and harbors, including environmental aspects of deepwater ports.
9. Noise pollution.
10. Nonmilitary environmental regulation and control of nuclear energy.
11. Ocean dumping.
12. Public buildings and improved grounds of the United States generally, including Federal buildings in the District of Columbia.
13. Public works, bridges, and dams.
14. Regional economic development.
15. Solid waste disposal and recycling.
16. Water pollution.
17. Water resources.

#### **Committee on Fiscal Policy**

1. Appropriation of the revenue for the support of the Government.
2. Bonded debt of the United States.
2. Budget and accounting measures.
3. Concurrent resolutions on the budget (as defined in section 3(a)(4) of the Congressional Budget Act of 1974) and all other matters required to be referred to that committee under titles III and IV of that Act.
4. Customs, collection districts, and ports of entry and delivery.

5. Deposit of public moneys.
6. General revenue sharing.
7. New spending authority and issues related thereto as specified in section 401 of the Congressional Budget Act.
8. Rescission of appropriations contained in appropriation Acts (referred to in section 105 of title 1, United States Code).
9. Revenue measures generally, and revenue measures relating to the insular possessions.
10. Revenue measures related the Social Security Act as amended.
11. Revenue measures (including fees for services) directed to the support of a specific program, except that committees having legislative jurisdiction over the subject matter covered in such program shall have the authority to report, by bill or otherwise, on the non-revenue aspects of such program.
12. Revenue aspects of tariff acts and reciprocal trade agreements.

#### **Committee on Foreign Relations**

1. Acquisition of land and buildings for embassies and legations in foreign countries.
2. Boundaries of the United States.
3. Diplomatic service.
4. Foreign economic, military, technical, and humanitarian assistance.
5. Foreign loans.
6. International activities of the American National Red Cross and the International Committee of the Red Cross.
7. International aspects of nuclear energy, including nuclear transfer policy.
8. International conferences and congresses.
9. International law as it relates to foreign policy.
10. International Monetary Fund and other international organizations established primarily for international monetary purposes (except that, at the request of the Committee on Banking, Housing, and Urban Affairs, any proposed legislation relating to such subjects reported by the Committee on Foreign Relations shall be referred to the Committee on Banking, Housing and Urban Affairs).
11. Intervention abroad and declarations of war.
12. Measures to regulate commercial intercourse with foreign nations and to safeguard American business interests abroad.
13. National security and international aspects of trusteeships of the United States.
14. Oceans and international environmental and scientific affairs as they relate to foreign policy.
15. Protection of United States citizens abroad and expatriation.
16. Relations of the United States with foreign nations generally.
17. Treaties and executive agreements, including reciprocal trade agreements.
18. United Nations and its affiliated organizations.

19. World Bank group, the regional development banks, and other international organizations established primarily for development assistance purposes.

#### **Committee on Governmental Affairs**

1. Archives of the United States.
2. Census and collection of statistics, including economic and social statistics.
3. Congressional organization, except for any part of the matter that amends the rules or orders of the Senate.
4. Federal Civil Service.
5. Government information.
6. Intergovernmental relations.
7. Municipal affairs of the District of Columbia, except appropriations therefor.
8. Organization and management of United States nuclear export policy.
9. Organization and reorganization of the executive branch of the Government.
10. Postal Service.
11. Status of officers and employees of the United States, including their classification, compensation, and benefits.

Such committee shall have the duty of:

- (A) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;
- (B) studying the efficiency, economy, and effectiveness of all agencies and departments of the Government;
- (C) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and
- (D) studying the intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

#### **Committee on Indian Affairs**

1. All proposed legislation, messages, petitions, memorials, and other matters relating to Indian affairs shall be referred to the select committee.
2. It shall be the duty of the committee to conduct a study of any and all matters pertaining to problems and opportunities of Indians, including but not limited to Indian land management and trust responsibilities,



Indian education, health, special services, and loan programs, and Indian claims against the United States.

3. The committee shall from time to time report to the Senate, by bill or otherwise, its recommendations with respect to matters referred to the committee or otherwise within its jurisdiction.

### **Committee on the Judiciary**

1. Apportionment of Representatives.
2. Bankruptcy, mutiny, espionage, and counterfeiting.
3. Civil liberties.
4. Constitutional amendments.
5. Federal courts and judges.
6. Government information.
7. Holidays and celebrations.
8. Immigration and naturalization.
9. Interstate compacts generally.
10. Judicial proceedings, civil and criminal, generally.
11. Local courts in the territories and possessions.
12. Measures relating to claims against the United States.
13. National penitentiaries.
14. Patent Office.
15. Patents, copyrights, and trademarks.
16. Protection of trade and commerce against unlawful restraints and monopolies.
17. Revision and codification of the statutes of the United States.
18. State and territorial boundary lines.

### **Committee on Labor and Human Resources**

1. Measures relating to education, labor, health, and public welfare.
2. Aging.
3. Agricultural colleges.
4. Arts and humanities.
5. Biomedical research and development.
6. Child labor.
7. Convict labor and the entry of goods made by convicts into interstate commerce.
8. Domestic activities of the American National Red Cross.
9. Equal employment opportunity.
10. Gallaudet College, Howard University, and Saint Elizabeths Hospital.
11. Handicapped individuals.
12. Labor standards and labor statistics.
13. Mediation and arbitration of labor disputes.
14. Occupational safety and health, including the welfare of miners.
15. Private pension plans.
16. Public health.
17. Railway labor and retirement.

18. Regulation of foreign laborers.
19. Student loans.
20. Wages and hours of labor.

#### **Committee on Rules and Administration**

- A. Reviews, on a continuing basis, the committee system of the Senate and the Standing Rules and other rules of the Senate related thereto.
- B. Provides for the awarding of service pins or emblems to Members, officers, and employees of the Senate, and promulgates regulations governing the awarding of such pins or emblems.
- C. Grants approval of the acceptance, retention, and wearing by a Member, officer, or employee of the Senate of a decoration tendered by a foreign government in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious service.
- D. Makes a continuing study of the organization and operation of the Congress of the United States and shall recommend improvements in such organization and operation with a view toward strengthening the Congress, simplifying its operations, improving its relationships with other branches of the United States Government, and enabling it better to meet its responsibilities under the Constitution of the United States; and
- E. Identifies any court proceeding or action which, in the opinion of the Committee, is of vital interest to the Congress as a constitutionally established institution of the Federal Government and call such proceeding or action to the attention of the Senate.
- F. Also is responsible for:
  1. Administration of the Senate Office Buildings and the Senate wing of the Capitol, including the assignment of office space.
  2. Congressional organization relative to rules and procedures, and Senate rules and regulations, including floor and gallery rules.
  3. Corrupt practices.
  4. Credentials and qualifications of Members of the Senate, contested elections, and acceptance of incompatible offices.
  5. Federal elections generally, including the election of the President, Vice President, and Member of the Congress.
  6. Government Printing Office, and the printing and correction of the Congressional Record, as well as those matters provided for under rule XI.
  7. Meetings of the Congress and attendance of Members.
  8. Payment of money out of the contingent fund of the Senate or creating a charge upon the same (except that any resolution relating

to substantive matter within the jurisdiction of any other standing committee of the Senate shall be first referred to such committee).

9. Presidential succession.
10. Purchase of books and manuscripts and erection of monuments to the memory of individuals.
11. Senate Library and statuary, art, and pictures in the Capitol and Senate Office Buildings.
12. Services to the Senate, including the Senate restaurant.
13. United States Capitol, and congressional office buildings, the Library of Congress, the Smithsonian Institution (and the incorporation of similar institutions), and the Botanic Gardens.

#### **Committee on Small Business**

1. Matters relating to the Small Business Administration (subject to review and reporting by other Standing Committee with jurisdiction over the functions of SBA and vice versa). Study and survey by means of research and investigation all problems of American small business enterprises.

#### **Committee on Veterans' Affairs**

1. Compensation of veterans.
2. Life insurance issued by the Government on account of service in the Armed Forces.
3. National cemeteries.
4. Pensions of all wars of the United States, general and special.
5. Readjustment of servicemen to civil life.
6. Soldiers' and sailors' civil relief.
7. Veterans' hospitals, medical care and treatment of veterans.
8. Veterans' measures generally.
9. Vocational rehabilitation and education of veterans.

#### **Special Committee on Aging**

Conducts a continuing study of any and all matters pertaining to problems and opportunities of older people, including, but not limited to, problems and opportunities of maintaining health, of assuring adequate income, of finding employment, of engaging in productive and rewarding activity, of securing proper housing, and when necessary of obtaining care or assistance; and reports to the Senate the results of its studies together with such recommendations as it considers appropriate.

**Select Committee on Ethics**

1. Receives complaints and investigates allegations of improper conduct which may reflect upon the Senate, violations of law, violations of the Senate Code of Official Conduct, and violations of rules and regulations of the Senate, relating to the conduct of individuals in the performance of their duties as Members of the Senate, or as officers or employees of the Senate, and to make appropriate findings of fact and conclusions with respect thereto.
2. Recommends to the Senate by report or resolution by a majority vote of the full committee disciplinary action (including, but not limited to, in the case of a Member: censure, expulsion, or recommendation to the appropriate party conference regarding such Member's seniority or positions of responsibility; and, in the case of an officer or employee: suspension or dismissal) to be taken with respect to such violations which the Select Committee shall determine, after according to the individuals concerned due notice and opportunity for hearing, to have occurred.
3. Recommends to the Senate, by report or resolution, such additional rules or regulations as the Select Committee shall determine to be necessary or desirable to insure proper standards of conduct by Members of the Senate, and by officers or employees of the Senate, in the performance of their duties and the discharge of their responsibilities.
4. Reports violation by a majority vote of the full committee of any law to the proper Federal and State authorities.
5. Transmits to the Senate its recommendation as to any legislative measures which it may consider to be necessary for the effective discharge of its duties.
6. Prescribes and publishes such regulations as it feels are necessary to implement the Senate Code of Official Conduct.
7. Issues interpretative rulings explaining and clarifying the application of any law, the Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction.
8. Renders advisory opinions, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nominations for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.
9. In its discretion, may render an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.
10. The advisory opinions issued by the Select Committee shall be compiled, indexed, reproduced, and made available on a periodic basis.



11. Is responsible for administering the reporting requirement of Title I of the Ethics in Government Act of 1978 are assigned to the Select Committee on Ethics.

*Investigative Procedures.* When the Select Committee receives a sworn complaint against a Member or officer of the Senate, it shall promptly conduct an initial review of that complaint. If as a result of an initial review the Select Committee determines by a recorded vote that there is not such substantial credible evidence, the Select Committee shall report such determination to the complainant and to the party charged, together with an explanation of the basis of such determination. If as a result of an initial review the Select Committee determines that a violation is inadvertent, technical, or otherwise of a de minimis nature, the Select Committee may attempt to correct or prevent such a violation by informal methods. If as the result of an initial review the Select Committee determines that [a] violation, if proven, is neither of a de minimis nature nor sufficiently serious to justify any of the penalties expressly referred to in subsection (a)(2), the Select Committee may propose a remedy it deems appropriate. If the matter is thereby resolved, a summary of the Select Committee's conclusions and the remedy proposed shall be filed as a public record with the Secretary of the Senate and a notice of such filing shall be printed in the Congressional Record. If as the result of an initial review the Select Committee determines that there is such substantial credible evidence, the Select Committee shall promptly conduct an investigation. Upon the conclusion of [any] investigation, the Select Committee shall report to the Senate, as soon as practicable, the results of such investigation together with its recommendations (if any) pursuant to subsection (a)(2). Upon the conclusion of any other investigation respecting the conduct of a Member or officer undertaken by the Select Committee, the Select Committee shall report to the Senate, as soon as practicable, the results of such investigation together with its recommendations (if any) pursuant to subsection (a)(2).

*Public Financial Disclosure.* The Select Committee on Ethics shall transmit a copy of each report filed with it under title I of the Ethics in Government Act of 1978 to the head of the employing office of the individual filing the report.

*Gifts.* No Member, officer, or employee of the Senate, or the spouse or dependent thereof, shall knowingly accept, directly or indirectly, any gift or gifts in any calendar year aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or \$250, whichever is greater, from any person, organization, or corporation unless, in an unusual case, a waiver is granted by the Select Committee on Ethics.

Notwithstanding the provisions of this rule, a Member, officer, or employee of the Senate may participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization if such participation is not in violation of any law and if the Select Committee on Ethics has determined that participation in such program by Members, officer, or employees of the Senate is in the interests of the Senate and the United States.

Any Member who accepts an invitation to participate in any such program shall notify the Select Committee in writing of his acceptance. A Member shall also notify the Select Committee in writing whenever he has permitted any officer or employee whom he supervises (within the meaning of paragraph 11 of rule XXXVII) to participate in any such program. The chairman of the Select Committee shall place in the Congressional Record a list of all individuals participating; the supervisors of such individuals, where applicable, and the nature and itinerary of such program.

No Member, officer, or employees may accept funds in connection with participation in a program permitted under subparagraph (a) if such funds are not used for necessary food, lodging, transportation, and related expenses of the Member, officer, or employee.

If the Committee on Ethics of the Senate determines that there is reasonable basis to believe that a Member, officer, or employee of the Senate may have committed an ethics violation, the committee may request the Office of Special Investigations of the General Accounting Office to conduct fact finding and an investigation into the matter. The Office of Special Investigation shall promptly investigate the matter as directed by the committee.

The Select Committee shall provide guidance, assistance, advice and counsel, through advisory opinions or consultations, in connection with the mailing or contemplated mailing of franked mail. The select committee shall prescribe regulations governing the proper use of the franking privilege under those sections by such persons.

The Select Committee shall investigate complaints of potential or actual violations of Senate franking rules and render and enforce decisions thereon.

*Senate Employee Rights; Review by the Select Committee on Ethics.* The Select Committee on Ethics may review a decision under section 1207 of this title. Review under this section shall be based on the record of the hearing board. The Committee shall adopt and publish in the Congressional Record procedures for request for review under this section. Within the time for a decision under subsection (d) of this section, the Committee may remand a decision no more than one time to the hearing board for the purpose of supplementing the record or for further consideration. If the Committee does not remand under subsection (c) of this section, it shall transmit a written final decision to the Office for entry in the records of the Office. The decision of the hearing board shall then be deemed to be a final decision.

*Confidentiality of Employee Rights/Hearings.* Except as provided in subsection (d) of this section (1213), the hearings, deliberations, and decisions of the hearing board and the Select Committee on Ethics shall be confidential.

*Final Decision of Select Committee on Ethics.* The final decision of the Select Committee on Ethics under section 1208 of this title, shall be made public if the decision is in favor of the complaining Senate employee or if the decision reverses a decision of the hearing board which had been in favor of the

employee. The Select Committee on Ethics may decide to release any other decision at its discretion, in the absence of a proceeding under section 1208 of this title, a decision of the hearing board that is favorable to the employee shall be made public.

*Release of records for judicial review.* The records and decisions of hearing boards, and the decisions of the Select Committee on Ethics, may be made public if required for the purpose of judicial review under section 1209 of this title.

*Authority to discipline.* Notwithstanding any provision of this chapter, including any provision authorizing orders for remedies to Senate employees to redress employment discrimination, the Select Committee on Ethics shall retain full power, in accordance with its authority under Senate Resolution 338, 88th Congress, as amended, with respect to disciplinary action against a Member, officer, or employee for a violation of Rule XLII.

### **Select Committee on Intelligence**

The select committee shall from time to time report to the Senate, by bill or otherwise, its recommendations with respect to matters referred to the select committee or otherwise within its jurisdiction, including:

1. The Central Intelligence Agency and the Director of Central Intelligence.
2. Intelligence activities of all other departments and agencies of the Government, including, but not limited to, the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of Defense; the Department of State; the Department of Justice; and the Department of the Treasury.
3. The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.
4. Authorizations for appropriations, both direct and indirect, for the following:
  - A. The Central Intelligence Agency and Director of Central Intelligence.
  - B. The Defense Intelligence Agency.
  - C. The National Security Agency.
  - D. The intelligence activities of other agencies and subdivisions of the Department of Defense.
  - E. The intelligence activities of the Department of State.
  - F. The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

- G. Any department, agency, or subdivision which is the successor to any agency named in clause (A), (B), or (C); and the activities of any department, agency, or subdivision which is the successor to any department, agency, bureau, or subdivision named in the clause (D), (E), or (F) to the extent that the activities of such successor department, agency, or subdivision are activities described in clause (D), (E), or (F).
5. Any proposed legislation reported by the select committee, except any legislation involving matters specified in clause (1) or (4)(A) of subsection (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee for its consideration of such matter and be reported to the Senate by such standing committee within thirty days after the day on which such proposed legislation is referred to such standing committee and vice versa.
6. The select committee shall make regular and periodic reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies of the United States.
7. The select committee shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Such reports shall review the intelligence activities of the agency or department concerned and the intelligence activities of foreign countries directed at the United States or its interest. An unclassified version of each report may be made available to the public at the discretion of the select committee.



## COMBINED AUTHORIZATIONS AND APPROPRIATIONS

### Underlying Philosophy

1. Would simplify spending decisions, and eliminate one step in the current three stage authorization-appropriations-budget process.
2. Would encourage timely reporting and floor actions on authorizations, assuming current restrictions on unauthorized appropriations remain. Some view linkage of authorization and appropriations jurisdiction as uneconomical.
3. Maintains current division of committees into "A" and "B" levels with some panels having clearly larger or more attractive policy workloads than others.
4. Reduced number of panels could result in two assignments per Member, one "A" assignment, and "B" assignment.

### HOUSE COMMITTEES

Committee on Agriculture  
 Committee on Armed Services  
 Committee on Banking,  
   Housing, and Urban  
   Affairs  
 Committee on the Budget  
 Committee on Commerce,  
   Science, and  
   Transportation  
 Committee on Education and  
   Labor  
 Committee on Energy and  
   Natural Resources  
 Committee on Environment  
   and Public Works  
 Committee on Foreign Affairs  
 Committee on Governmental  
   Affairs  
 Committee on House  
   Administration  
 Committee on the Judiciary  
 Committee on Rules  
 Committee on Standards of  
   Official Conduct  
 Committee on Veterans's  
   Affairs  
 Committee on Ways and  
   Means  
 Select Committee on  
   Intelligence

### SENATE COMMITTEES

Committee on National  
   Priorities  
 Committee on Agricultural  
   Policy  
 Committee on Defense Policy  
 Committee on Commercial  
   Policy  
 Committee on Economic Policy  
 Committee on Energy Policy  
 Committee on Environmental  
   Policy  
 Committee on Foreign Policy  
 Committee on Governmental  
   Policy  
 Committee on Judicial Policy  
 Committee on Social Policy  
 Committee on Native American  
   Programs  
 Committee on Senior American  
   Programs  
 Committee on Veteran  
   American Programs  
 Committee on Entrepreneurial  
   American Programs  
 Committee on Senate Rules

**COMBINED AUTHORIZATIONS AND APPROPRIATIONS****HOUSE COMMITTEES****Committee on Agriculture**

1. Adulteration of seeds, insect pests, and protection of birds and animals in forest reserves.
2. Agriculture generally.
3. Agricultural and industrial chemistry.
4. Agricultural colleges and experiment stations.
5. Agricultural economics and research.
6. Agricultural education extension services.
7. Agricultural production and marketing and stabilization of prices of agricultural products, and commodities (not including distribution outside of the United States).
8. Animal industry and diseases of animals.
9. Crop insurance and soil conservation.
10. Dairy industry.
11. Entomology and plant quarantine.
12. Extension of farm credit and farm security.
13. Forestry in general, and forest reserves other than those created from the public domain.
14. Human nutrition and home economics.
15. Inspection of livestock and meat products.
16. Plant Industry, soils, and agricultural engineering.
17. Rural electrification.
18. Rural development.
19. Appropriations or rescissions of appropriations for programs listed above.

**Committee on Armed Services**

1. Common defense generally.
2. The Department of Defense generally, including the Departments of the Army, Navy, and Air Force generally.
3. Ammunition depots; forts; arsenals; Army, Navy and Air Force reservations and establishments.
4. Conservation, development, and use of naval petroleum and oil shale reserves.
5. Pay, promotion, retirement, and other benefits and privileges of members of the armed forces.
6. Scientific research and development in support of the armed services.
7. Selective service.
8. Size and composition of the Army, Navy, and Air Force.
9. Soldiers' and sailors' homes.
10. Strategic and critical materials necessary for the common defense.

11. Military applications of nuclear energy.
12. Appropriations or rescissions of appropriations for programs listed above.

#### **Committee on Banking, Housing, and Urban Affairs**

1. Banks and banking, including deposit insurance and Federal monetary policy.
2. Money and credit, including currency and the issuance of notes and redemption thereof; gold and silver, including the coinage thereof; valuation and revaluation of the dollar.
3. Urban development.
4. Public and private housing.
5. Economic stabilization, defense production, renegotiation, and control of the price of commodities, rents, and services.
6. International finance.
7. Financial aid to commerce and industry (other than transportation).
8. International Financial and Monetary organizations.
9. Appropriations or rescissions of appropriations for programs listed above.

#### **Committee on the Budget**

1. All concurrent resolutions on the budget (as defined in section 3(a)(4) of the Congressional Budget Act of 1974) and other matters required to be referred to the committee under titles III and IV of that Act, and any resolution pursuant to section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.
2. The committee shall have the duty—
  - A. to report the matters required to be reported by it under titles III and IV of the Congressional Budget Act of 1974;
  - B. to make continuing studies of the effect on budget outlays of relevant existing and proposed legislation and to report the results of such studies to the House on a recurring basis;
  - C. to request and evaluate continuing studies of tax expenditures, to devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and to report the results of such studies to the House on a recurring basis; and
  - D. to review, on a continuing basis, the conduct by the Congressional Budget Office of its functions and duties.

**Committee on Commerce, Science, and Transportation**

1. Interstate and foreign commerce generally.
2. Inland waterways.
3. Railroads, including railroad labor, railroad retirement and unemployment, except revenue measures related thereto.
4. Regulation of interstate and foreign communications.
5. Securities and exchange.
6. Consumer affairs and consumer protection.
7. Travel and tourism.
8. Merchant marine generally.
9. Oceanography and Marine Affairs, including coastal zone management.
10. Coast Guard, including lifesaving service, lighthouses, lightships, and ocean derelicts.
11. Measures relating to the regulation of common carriers by water (except matters subject to the jurisdiction of the Interstate Commerce Commission) and to the inspection of merchant marine vessels, lights and signals, lifesaving equipment, and fire protection on such vessels.
12. Merchant marine officers and seamen.
13. Navigation and the laws relating thereto, including pilotage.
14. Panama Canal and the maintenance and operation of the Panama Canal, including the administration, sanitation, and government of the Canal Zone; and interoceanic canals generally.
15. Registering and licensing of vessels and small boats.
16. Rules and international arrangements to prevent collisions at sea.
17. United States Coast Guard and Merchant Marine Academies, and State Maritime Academies.
18. Transportation, including civil aviation except railroads, railroad labor and pensions.
19. Roads and safety thereof.
20. Water transportation subject to the jurisdiction of the Interstate Commerce Commission.
21. Related transportation regulatory agencies, except (A) the Interstate Commerce Commission as it relates to railroads; (B) Federal Railroad Administration; and (C) Amtrak.
22. Astronautical research and development, including resources, personnel, equipment, and facilities.
23. Bureau of Standards, standardization of weights and measures and the metric system.
24. National Aeronautics and Space Administration.
25. National Aeronautics and Space Council.
26. National Science Foundation.
27. Outer space, including exploration and control thereof.
28. Science Scholarships.
29. Scientific research, development, and demonstration, and projects therefor.
30. Civil aviation research and development.
31. National Weather Service.
32. Assistance to and protection of small business, including financial aid.



33. Appropriations or rescissions of appropriations for programs listed above.

#### **Committee on Education and Labor**

1. Measures relating to education or labor generally.
2. Child labor.
3. Columbia Institution for the Deaf, Dumb, and Blind; Howard University; Freedmen's Hospital.
4. Convict labor and the entry of goods made by convicts into interstate commerce.
5. Labor standards.
6. Labor statistics.
7. Mediation and arbitration of labor disputes.
8. Regulation or prevention of importation of foreign laborers under contract.
9. Food programs for children in schools.
10. United States Employees' Compensation Commission.
11. Vocational rehabilitation.
12. Wages and hours of labor.
13. Welfare of miners.
14. Work incentive programs.
15. Appropriations or rescissions of appropriations for programs listed above.

#### **Committee on Energy and Natural Resources**

1. National energy policy generally.
2. Measures relating to the exploration, production, storage, supply, marketing, pricing, and regulation of energy resources, including all fossil fuels, solar energy, and other unconventional or renewable energy resources.
3. Measures relating to the conservation of energy resources.
4. Measures relating to the commercial application of energy technology.
5. Measures relating to energy information generally.
6. Measures relating to (A) the generation and marketing of power (except by federally chartered or Federal regional power marketing authorities), (B) the reliability and interstate transmission of, and ratemaking for, all power, and (C) the siting of generation facilities; except the installation of interconnections between Government waterpower projects.
7. Interstate energy compacts.
8. Measures relating to general management of the Department of Energy, and the management and all functions of the Federal Energy Regulatory Commission.
9. Forest reserves and national parks created from the public domain.
10. Forfeiture of land grants and alien ownership, including alien ownership of mineral lands.

11. Geological Survey.
12. Interstate compacts relating to apportionment of waters for irrigation purposes.
13. Irrigation and reclamation, including water supply for reclamation projects, and easements of public lands for irrigation projects, and acquisition of private lands when necessary to complete irrigation projects.
14. Measures relating to the care and management of Indians, including the care and allotment of Indian lands and general and special measures relating to claims which are paid out of Indian funds.
15. Measures relating generally to the insular possessions of the United States, except those affecting the revenue and appropriations.
16. Military parks and battlefields; national cemeteries administered by the Secretary of the Interior, and parks within the District of Columbia.
17. Mineral land laws and claims and entries thereunder.
18. Mineral resources of the public lands.
19. Mining interests generally.
20. Mining schools and experimental stations.
21. Petroleum conservation on the public lands and conservation of the radium supply in the United States.
22. Preservation of prehistoric ruins and objects of interests on the public domain.
23. Public lands, generally, including entry, easements, and grazing thereon.
24. Relations of the United States with the Indians and the Indian tribes.
25. Regulation of the domestic nuclear energy industry, including regulation of research and development reactors and nuclear regulatory research.
26. Water power.
27. All energy research, development, and demonstration, and projects therefor, and all federally owned or operated nonmilitary energy laboratories.
28. Appropriations or rescissions of appropriations for programs listed above.

#### **Committee on Environment and Public Works**

1. Public health and quarantine.
2. Health and health facilities, except health care supported by payroll deductions.
3. Biomedical research and development. Such committee shall have the same jurisdiction with respect to regulation of nuclear facilities and of use of nuclear energy as it has with respect to regulation of nonnuclear facilities and of use of nonnuclear energy. In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight functions under clause 2 (b)(1), such committee shall have the special oversight functions provided for

- in clause (3)(h) with respect to all laws, programs, and Government activities affecting nuclear and other energy.
4. Fisheries and wildlife, including research, restoration, refuges, and conservation.
  5. International fishing agreements.
  6. Flood control and improvement of rivers and harbors.
  7. Measures relating to the Capitol Building and the Senate and House Office Buildings.
  8. Measures relating to the construction or maintenance of roads and post roads, other than appropriations therefor; but it shall not be in order for any bill providing general legislation in relation to roads to contain any provision for any specific road, nor for any bill in relation to a specific road to embrace a provision in relation to any other specific road.
  9. Measures relating to the construction or reconstruction, maintenance, and care of the buildings and grounds of the Botanic Gardens, the Library of Congress, and the Smithsonian Institution.
  10. Measures relating to the purchase of sites and construction of post offices, customhouses, Federal courthouses, and Government buildings within the District of Columbia.
  11. Oil and other pollution of navigable waters.
  12. Public buildings and occupied or improved grounds of the United States generally.
  13. Public works for the benefit of navigation, including bridges and dams (other than international bridges and dams).
  14. Environmental research and development.
  15. Appropriations or rescissions of appropriations for programs listed above.

#### **Committee on Foreign Affairs**

1. Relations of the United States with foreign nations generally.
2. Acquisition of land and buildings for embassies and legations in foreign countries.
3. Establishment of boundary lines between the United States and foreign nations.
4. Foreign loans.
5. International conferences and congresses.
6. Intervention abroad and declarations of war.
7. Measures relating to the diplomatic service.
8. Measures to foster commercial intercourse with foreign nations and to safeguard American business interest abroad.
9. Neutrality.
10. Protection of American citizens abroad and expatriation.
11. The American National Red Cross.
12. United Nations Organizations.
13. Measures relating to international economic policy.
14. Export controls, including nonproliferation of nuclear technology and nuclear hardware.

15. International commodity agreements (other than those involving sugar), including all agreements for cooperation in the export of nuclear technology and nuclear hardware.
16. Trading with the enemy.
17. International education.
18. Appropriations or rescissions of appropriations for programs listed above.

#### **Committee on Governmental Affairs**

1. All measures relating to the municipal affairs of the District of Columbia in general, including appropriations therefor.
2. Budget and accounting measures, other than appropriations.
3. The overall economy and efficiency of Government operations and activities, including Federal procurement.
3. Reorganizations in the executive branch of the Government.
4. Intergovernmental relationships between the United States and the States and municipalities, and general revenue sharing.
5. National archives.
6. Measures providing for off-budget treatment of Federal agencies or programs.
7. Census and the collection of statistics generally.
8. All Federal Civil Service, including intergovernmental personnel.
9. Postal-savings banks.
10. Postal service generally, including the railway mail service, and measures relating to ocean mail and pneumatic-tube service; but excluding post roads.
11. Status of officers and employees of the United States, including their compensation, classification and retirement.
12. Hatch Act.
13. Holidays and celebrations.
14. Population and demography.
15. Participation of small-business enterprises in Federal procurement and Government contracts.
16. Appropriations or rescissions of appropriations for programs listed above.

#### **Committee on House Administration**

1. Appropriations from the contingent fund.
2. Auditing and settling of all accounts which may be charged to the contingent fund.
3. Employment of persons by the House, including clerks for Members and committees, and reporters of debates.
4. Except as provided in clause 1(p)(4), matters relating to the Library of Congress, and the House Library; statuary and pictures; acceptance or purchase of works of art for the Capitol; the Botanic Gardens;



management of the Library of Congress; purchase of books and manuscripts; erection of monuments to the memory of individuals.

5. Except as provided in clause 1(p)(4), matters relating to the Smithsonian Institution and the incorporation of similar institutions.
6. Expenditure of contingent funds of the House.
7. Matters relating to printing and correction of the Congressional Record.
8. Measures relating to accounts of the House generally.
9. Measures relating to assignment of office space for Members and committees.
10. Measures relating to the disposition of useless executive papers.
11. Measures relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; credentials and qualifications; and Federal elections generally.
12. Measures relating to services to the House, including the House Restaurant, parking facilities and administration of the House Office Buildings and of the House wing of the Capitol.
13. Measures relating to the travel of Members of the House.
14. Measures relating to the raising, reporting and use of campaign contributions for candidates for office of Representative in the House of Representatives and of Resident Commissioner to the United States from Puerto Rico.
15. Measures relating to the compensation, retirement and other benefits of the Members, officers, and employees of the Congress.
16. Appropriations or rescissions of appropriations for programs listed above.

#### **Committee on the Judiciary**

1. Judicial proceedings, civil and criminal generally.
2. Apportionment of Representatives.
3. Bankruptcy, mutiny, espionage, and counterfeiting.
4. Civil liberties.
5. Constitutional amendments.
6. Federal courts and judges.
7. Immigration and naturalization.
8. Interstate compacts generally.
9. Local courts in the Territories and possessions.
10. Measures relating to claims against the United States.
11. Meetings of Congress, attendance of Members and their acceptance of incompatible offices.
12. National penitentiaries.
13. Patent Office.
14. Patents, copyrights, and trademarks.
15. Presidential succession.
16. Protection of trade and commerce against unlawful restraints and monopolies.
17. Revision and codification of the Statutes of the United States.
18. State and territorial boundary lines.

19. Communist and other subversive activities affecting the internal security of the United States.
20. Appropriations or rescissions of appropriations for programs listed above.

#### **Committee on Rules**

1. The rules and joint rules (other than rules or joint rules relating to the Code of Official Conduct), and order of business of the House.
2. Emergency waivers (under the Congressional Budget Act of 1974) of the required reporting date for bills and resolutions authorizing new budget authority.
3. Recesses and final adjournment of Congress.

#### **Committee on Standards of Official Conduct**

1. Measures relating to the Code of Official Conduct.

#### **Committee on Veterans's Affairs**

1. Veterans' measures generally.
2. Cemeteries of the United States in which veterans of any war or conflict are or may be buried, whether in the United States or abroad, except cemeteries administered by the Secretary of the Interior.
3. Compensation, vocational rehabilitation, and education of veterans.
4. Life insurance issued by the Government on account of service in the Armed Service.
5. Pensions of all the wars of the United States, general and special.
6. Readjustment of servicemen to civil life.
7. Soldiers' and sailors' civil relief.
8. Veterans' hospitals, medical care, and treatment of veterans.
9. Appropriations or rescissions of appropriations for programs listed above.

#### **Committee on Ways and Means**

1. Customs, collection districts, and ports of entry and delivery.
2. Reciprocal trade agreements.
3. Revenue measures generally.
4. Revenue measures relating to the insular possessions.
5. The bond debt of the United States (subject to the last sentence of clause 4(g) of this rule).
6. The deposit of public money.
7. Transportation of dutiable goods.
8. Tax exempt foundations and charitable trusts.

9. National social security, except (A) health care and facilities programs that are supported from general revenues as opposed to payroll deductions and (B) work incentive programs.
10. Appropriations or rescissions of appropriations for programs listed above.

#### **Select Committee on Intelligence**

1. The Central Intelligence Agency and Director of Central Intelligence.
2. Intelligence and intelligence-related activities of all other departments and agencies of the Government, including, but not limited to the intelligence and intelligence related activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of State; the Department of Justice; and the Department of the Treasury.
3. The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence or intelligence-related activities.
4. Authorizations for appropriations, both direct and indirect, for the following:
  - A. The Central Intelligence Agency and Director of Central Intelligence.
  - B. The Defense Intelligence Agency.
  - C. The National Security Agency.
  - D. The intelligence and intelligence-related activities of other agencies and subdivisions of the Department of Defense.
  - E. The intelligence and intelligence-related activities of the Department of State.
  - F. The intelligence and intelligence-related activities of the Federal Bureau of Investigations, including all activities of the Intelligence Division.
  - G. Any department, agency, or subdivision which is the successor to any agency named in subdivision (A), (B), or (C); and the activities of any department, agency, or subdivision which is the successor to any department, agency, bureau, or subdivision named in subdivision (D), (E), or (F), to the extent that the activities of such successor department, agency, or subdivision are activities described in subdivision (D), (E), or (F).
5. Appropriations or rescissions of appropriations for programs listed above.

**SENATE COMMITTEES****Committee on National Priorities**

1. All concurrent resolutions on the budget and related matters.
2. Such committee shall have the duty—
  - A. to report the matters required to be reported by committee under titles III and IV of the Congressional Budget Act of 1974.
  - B. to make continuing studies of the effect on budget outlays of relevant existing and proposed legislation and to report the results of such studies to the Senate on a recurring basis.
  - C. to request and evaluate continuing studies of tax expenditures, to devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and to report the results of such studies to the Senate on a recurring basis.
  - D. to review, on a continuing basis, the conduct by the Congressional Budget Office of its functions and duties.

**Committee on Agricultural Policy**

1. Agricultural economics and research.
2. Agricultural extension services and experiment stations.
3. Agricultural production, marketing, and stabilization of prices.
4. Agricultural and agricultural commodities.
5. Animal industry and diseases.
6. Crop insurance and soil conservation.
7. Farm credit and farm security.
8. Food from fresh waters.
9. Inspection of livestock, meat, and agricultural products.
10. Pests and pesticides.
11. Plant industry, soils, and agricultural engineering.
12. Rural development, rural electrification, and watersheds.

There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified above.

**Committee on Defense Policy**

1. Aeronautical and space activities peculiar to or primarily associated with the development of weapons systems or military operations.
2. Common defense.



3. Department of Defense, the Department of the Army, the Department of the Navy, and the Department of the Air Force, generally.
4. Maintenance and operation of the Panama Canal, including administration, sanitation, and government of the Canal Zone.
5. Military research and development.
6. National security aspects of nuclear energy.
7. Naval petroleum reserves, except those in Alaska.
8. Pay, promotion, retirement, and other benefits and privileges of members of the Armed Forces, including overseas education of civilian and military dependents.
9. Selective Service system.
10. Strategic and critical materials necessary for the common defense.

There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified above.

#### **Committee on Commercial Policy**

1. Coast Guard.
2. Coastal zone management.
3. Communications.
4. Construction and maintenance of highways, and highway safety.
5. Inland waterways, except construction.
6. Interstate commerce.
7. Marine and ocean navigation, safety, and transportation, including navigational aspects of deepwater ports.
8. Marine fisheries.
9. Merchant marine and navigation.
10. Nonmilitary aeronautical and space sciences.
11. Oceans, weather, and atmospheric activities.
12. Regulation of consumer products and services, including testing related to toxic substances, other than pesticides.
13. Regulation of interstate common carriers, including railroads, buses, trucks, vessels, pipelines, and civil aviation.
14. Science, engineering, and technology research and development and policy.
15. Sports.
16. Standards and measurements.
17. Transportation.
18. Transportation and commerce aspects of Outer Continental Shelf lands.
19. Regional economic development.
20. Financial aid to commerce and industry.
21. Public works, bridges, and dams.

There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified above.

#### **Committee on Economic Policy**

1. Bonded debt of the United States, except as provided in the Congressional Budget Act of 1974.
2. Deposits of public moneys.
3. Revenue measures generally, except as provided in the Congressional Budget Act of 1974.
4. Revenue measures relating to the insular possessions.
5. Banks, banking, and financial institutions.
6. Deposit insurance.
7. Federal monetary policy, including the Federal Reserve System.
8. Issuance and redemption of notes.
9. Money and credit, including currency and coinage.

There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified above.

#### **Committee on Energy Policy**

1. Coal production, distribution, and utilization.
2. Energy policy.
3. Energy regulation and conservation.
4. Energy-related aspects of deepwater ports.
5. Energy research and development.
6. Extraction of minerals from oceans and Outer Continental Shelf lands.
7. Hydroelectric power, irrigation, and reclamation.
8. Mining education and research.
9. Mining, mineral lands, mining claims, and mineral conservation.
10. Naval petroleum reserves in Alaska.
11. Nonmilitary development of nuclear energy.
12. Oil and gas production and distribution.
13. Solar energy systems.

There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified above.

**Committee on Environmental Policy**

1. Air pollution.
2. Environmental aspects of Outer Continental Shelf lands.
3. Environmental effects of toxic substances, other than pesticides.
4. Environmental policy.
5. Environmental research and development.
6. Fisheries and wildlife.
7. Flood control and improvements of rivers and harbors, including environmental aspects of deepwater ports.
8. Noise pollution.
9. Nonmilitary environmental regulation and control of nuclear energy.
10. Ocean dumping.
11. Solid waste disposal and recycling.
12. Water pollution.
13. Water resources.
14. Forestry, and forest reserves and wilderness areas.
15. National parks, recreation areas, wild and scenic rivers, historical sites, military parks and battlefields, and on the public domain, preservation of prehistoric ruins and objects of interest.
16. Public lands and forests, including farming and grazing thereon, and mineral extraction therefrom.

There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriations, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified above.

**Committee on Foreign Policy**

1. Acquisition of land and buildings for embassies and legations in foreign countries.
2. Boundaries of the United States.
3. Diplomatic service.
4. Foreign economic, military, technical, and humanitarian assistance.
5. Foreign loans.
6. International activities of the American Red Cross and the International Committee of the Red Cross.
7. International aspects of nuclear energy, including nuclear transfer policy.
8. International conferences and congresses.
9. International law as it relates to foreign policy.
10. International Monetary Fund and other International organizations established primarily for international monetary purposes.
11. Intervention abroad and declarations of war.
12. Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.

13. Trusteeships of the United States, including territorial possessions of the United States.
14. Oceans and international environmental and scientific affairs as they relate to foreign policy.
15. Protection of United States citizens abroad and expatriation.
16. Relations of the United States with foreign nations generally.
17. Treaties and executive agreements.
18. United Nations and its affiliated organizations.
19. World Bank group, the regional development banks, and other international organizations established primarily for development assistance programs.
20. Foreign trade promotion, export, and export controls.
21. Interoceanic canals generally, unless otherwise provided.
22. Customs and ports of entry and delivery.
23. Reciprocal trade agreements.
24. Tariffs and import quotas, and matters related thereto.
25. Organization and management of United States nuclear export policy.

There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified above.

#### **Committee on Governmental Policy**

1. Archives of the United States.
2. Budget and accounting measures, except as provided in the Congressional Budget Act of 1974.
3. Census and collection of statistics, including economic and social statistics.
4. Congressional organizations, except for any part of the matter that amends the rules of order of the Senate.
5. Federal Civil Service.
6. Government information.
7. Intergovernmental relations.
8. Municipal affairs of the District of Columbia.
9. Organization and reorganization of the executive branch of the Government.
10. Postal Service.
11. Status of officers of the United States, including their classification, compensation, and benefits.
12. Renegotiation of governmental contracts.
13. Public buildings and improved grounds of the United States general, including Federal buildings in the District of Columbia.

There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of



Government programs, projects, or activities relating primarily to the subjects specified above.

#### **Committee on Judicial Policy**

1. Apportionment of Representatives.
2. Bankruptcy, mutiny, espionage, and counterfeiting.
3. Civil liberties.
4. Constitutional amendments.
5. Federal courts and judges.
6. Holidays and celebrations.
7. Immigration and naturalization.
8. Interstate compacts generally.
9. Judicial proceedings, civil and criminal, generally.
10. Local courts in the territories and possessions.
11. Measures relating to claims against the United States.
12. National penitentiaries.
13. Patent Office.
14. Patents, copyrights, and trademarks.
15. Protection of trade and commerce against unlawful restraints and monopolies.
16. Revisions and codification of the statutes of the United States.
17. State and territorial boundary lines.

There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified above.

#### **Committee on Social Policy**

1. Measures relating to education, labor, health, and public welfare.
2. Arts and humanities.
3. Biomedical research and development.
4. Child labor.
5. Domestic activities of the American Red Cross.
6. Equal employment opportunity.
7. Gallaudet College, Howard University, and Saint Elizabeth's Hospital.
8. Handicapped individuals.
9. Labor standards.
10. Mediation and arbitration of labor disputes.
11. Occupational safety and health, including the welfare of miners.
12. Private pension plans.
13. Public health.
14. Railroad retirement program.
15. Regulation of foreign laborers.
16. Student loans.

17. Wages and hours of labor.
18. Food stamp programs.
19. Human nutrition.
20. School nutrition program.
21. Public housing.
22. Nursing homes including construction.
23. National social security.
24. Public health programs, including health programs under the Social Security Act.

There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified above.

#### **Committee on Native American Programs**

1. All proposed legislation, messages, petitions, memorials, and other matters relating primarily to Native Americans generally, and Native American Programs.

There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of government programs, projects, or activities relating primarily to the subjects specified above.

#### **Committee on Senior American Programs**

- 1.. All proposed legislation, messages, petitions, memorials, and other matters relating primarily to senior Americans generally, and to the Older Americans Act.

There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified above.

#### **Committee on Veteran American Programs**

1. Compensation of veterans.
2. Life insurance issued by the Government on account of service in the Armed Forces.
3. National cemeteries.
4. Pensions of all wars of the United States, general and special.
5. Readjustment of servicemen to civilian life.

6. Soldiers and sailors civil relief.
7. Veterans' hospitals, medical care and treatment of veterans.
8. Veterans' measures generally.
9. Vocational rehabilitation and education of veterans.

There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified above.

#### **Committee on Entrepreneurial American Programs**

1. All proposed legislation, messages, petitions, memorials, and other matters relating to the Small Business Administration.
2. Any proposed legislation reported by such committee which relates to matters other than the functions of the Small Business Administration shall at the request of any standing committee having jurisdiction over the subject matter extraneous to the functions of the Small Business Administration, be considered prior to its consideration by the Senate; and likewise measures reported by other committees directly relating to the Small Business Administration shall, at the request of the Committee on Entrepreneurial American Programs for its consideration of any portions of the measure dealing with the Small Business Administration, be considered and reported by this committee prior to its consideration by the Senate.

There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified above.

#### **Committee on Senate Rules**

1. Administration of the Senate office buildings and the Senate wing of the Capitol, including the assignment of office space.
2. Congressional organization relative to rules and procedures, and Senate rules and regulations, including floor and gallery rules.
3. Corrupt practices.
4. Credentials and qualifications of members of the Senate, contested elections, and acceptance of incompatible offices.
5. Federal elections generally, including the election of the President, Vice President, and members of Congress.
6. Government Printing Office, and the printing and correction of the Congressional Record, as well as those matters provided under rule XI.
7. Meetings of the Congress and attendance of the members.

8. Payments of money out of the contingent fund of the Senate or creating a charge upon the same (except that any resolution relating to substantive matter within the jurisdiction of any other standing committee of the Senate shall first be referred to such committee).
9. Presidential succession.
10. Purchase of books and manuscripts and erection of monuments to the memory of individuals.
11. Senate Library and statuary, art, and pictures in the Capitol and Senate office buildings.
12. Services to the Senate, including the Senate restaurant.
13. United States Capitol and congressional office buildings, the Library of Congress, the Smithsonian Institution (and the incorporation of similar institutions), and the Botanic Gardens.

There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified above.



**NUMBER-BASED COMMITTEE STRUCTURE**

**8 COMMITTEES PER CHAMBER****Underlying Philosophy**

1. Radical restructuring of current committee structure. Size of committees would limit most Members to only one assignment.
2. Subcommittees may play stronger role as full committee size encourages reliance upon smaller membership subcommittees.
3. Breadth of full committee jurisdiction likely to reduce policy overlap among committees and the need for multiple referrals.
4. Workload among the eight committees likely to be at least double that of current panels.
5. Retains option to establish separate committees to handle appropriations and tax matters.

**HOUSE AND SENATE COMMITTEES**

Committee on Budget

Committee on Economic Affairs

Committee on Foreign Affairs and Defense

Committee on Government Operations and Judiciary

Committee on Human Resources

Committee on Natural Resources

Committee on Physical Resources

Committee on Rules

**8 COMMITTEES PER CHAMBER****Committee on Budget**

1. Concurrent resolutions on the budget.

**Committee on Economic Affairs**

1. Finance.
2. Internal Revenue.
3. Banking and Currency.

**Committee on Foreign Affairs and Defense**

1. National defense generally.
2. Foreign relations and international operations, generally.
3. Intelligence policy.

**Committee on Government Operations and Judiciary**

1. District of Columbia.
2. Judiciary.
3. Post Office and Civil Service.
4. Executive Branch.

**Committee on Human Resources**

1. Health.
2. Education.
3. Labor.
4. Public Welfare.
5. Veterans.
6. Aging.

**Committee on Natural Resources**

1. Agriculture.
2. Energy.
3. Science.
4. Ecology.
5. Environment.

**Committee on Physical Resources**

1. Commerce.
2. Communications.
3. Transportation.
4. Space.

**Committee on Rules**

1. Rules and Procedure.
2. Standards of Conduct.
3. Housekeeping Functions.



**12 COMMITTEES PER CHAMBER****Underlying Philosophy**

1. Reduces number of committees in House and Senate.
2. Establishes multiple-interest committees with internal checks and balances on each committee with inclusion of divergent subject areas in each.
3. Smaller number of committee likely to permit only one committee assignment per Member; subcommittees and subcommittee assignments could be limited to require broad jurisdiction subcommittees.
4. Would achieve relative parity in workload among committees.
5. Based largely on preliminary discussions of the House Select Committee on Committees in the 93d Congress.

**HOUSE AND SENATE COMMITTEES**

Committee on Agriculture and Rural Development  
Committee on Appropriation  
Committee on Banking, Housing, and Small Business  
Committee on Budget  
Committee on Commerce, Transportation, and Communications  
Committee on Energy, Science, and Environment  
Committee on Finance  
Committee on Government Affairs and Oversight  
Committee on Human Resources  
Committee on Judiciary  
Committee on National Security and Foreign Relations  
Committee on Rules, Administration and Standards

**12 COMMITTEES PER CHAMBER****Committee on Agriculture and Rural Development**

1. Agriculture generally.
2. Inspection of livestock, meat, agricultural products.
3. Animal industry and diseases.
4. Pests and pesticides.
5. Forestry.
6. Agricultural economics and research.
7. Human nutrition and home economics.
8. Plant industry, soils and agricultural engineering.
9. Farm credit and farm security.
10. Rural electrification.
11. Agricultural production, marketing and stabilization of prices.
12. Crop insurance and soil conservation.
13. Economic development generally.

**Committee on Appropriations**

1. Appropriations for revenue in support of the government.
2. Recessions of appropriations.
3. New spending authority.

**Committee on Banking, Housing, and Small Business**

1. Banking and currency generally.
2. Financial aid to commerce and industry.
3. Deposit insurance.
4. Housing and community development.
5. Federal Reserve System and monetary policy.
6. Gold and silver.
7. Issuance and redemption of notes.
8. Valuation of the dollar.
9. Control of prices of commodities, rents or services.
10. Urban affairs generally.
11. Programmatic aspects of reciprocal trade agreements, tariffs, and import quotas.
12. International financial and monetary organizations.
13. Measures to foster foreign trade.

**Committee on Budget**

1. Concurrent budget resolutions.
2. Studies of effects of legislation on budget outlays.

3. Studies of tax expenditures.
4. Congressional Budget Office.

#### **Committee on Commerce, Transportation, and Communications**

1. Commerce generally.
2. Regulation of interstate common carriers.
3. Communications.
4. Civil aeronautics other than aerospace.
5. Merchant Marine and navigation.
6. Coast Guard.
7. Panama Canal, interoceanic canals generally.
8. Inland waterways.
9. Flood control and improvements of rivers and harbors.
10. Public works, bridges and dams.
11. Measures relative to the construction and maintenance of roads.
12. Urban mass transit.

#### **Committee on Energy, Science, and Environment**

1. Nonmilitary aeronautical and space activities.
2. National Oceanic and Atmospheric Administration.
3. Fisheries and wildlife.
4. Bureau of Standards.
5. Coastal zone management.
6. Oil and gas production and distribution.
7. Public lands generally.
8. Forest reserves and national parks.
9. Irrigation and reclamation.
10. Mining and mineral lands and claims.
11. Geological Survey.
12. Mining schools and stations.
13. Petroleum and radium conservation.
14. Water power.
15. Water pollution.
16. Development, use and control of atomic energy.
17. Energy Research and Development Administration.
18. Nuclear Regulatory Commission.

#### **Committee on Finance**

1. Revenue measures generally.
2. Bonded debt of the United States.
3. Deposit of public moneys.
4. Custom.
5. Revenue from reciprocal trade.
6. Transportation of dutiable goods.

7. Revenue measures regarding the insular possessions of the U.S.
8. Revenue aspects of tariffs and import quotas.
9. Revenue aspects of social security.

#### **Committee on Government Affairs and Oversight**

1. All measures relating to the municipal affairs of the District of Columbia.
2. Acquisition of land and buildings for embassies.
3. Budget and accounting measures other than appropriations.
4. Study of governmental activities at all levels.
5. Reports of the Comptroller General.
6. Intergovernmental relations.
7. Insular possessions of the U.S.
8. Federal Civil Service generally.
9. Status of officers and employees of the U.S.
10. Postal Service generally.
11. Census and collection of statistics.
12. National archives.
13. Public buildings and grounds.
14. Measures concerning purchase of sites and construction of post offices, Federal courthouses, and government buildings in D.C.
15. Measures relating to the Capitol Building, Senate and House Office Buildings, and parks within D.C.
16. Measures concerning construction, maintenance, and care of the Botanic Gardens, Library of Congress, Smithsonian Institution.

#### **Committee on Human Resources**

1. School breakfast program.
2. School lunch program.
3. Food stamp program.
4. Indian Affairs generally.
5. Education, labor and public welfare generally.
6. Mediation and arbitration of labor disputes.
7. Wages and hours of labor.
8. Convict labor.
9. Child labor.
10. Foreign labor.
11. Labor statistics.
12. Labor standards.
13. Vocational rehabilitation.
14. Railway labor and retirement.
15. Public health and quarantine.
16. Welfare of miners.
17. Veterans measures generally.



**Committee on Judiciary**

1. Judicial proceeding generally.
2. Constitutional amendments.
3. Federal courts and judges.
4. Local courts in territories and possessions.
5. Revision and codification of U.S. statutes.
6. National penitentiaries.
7. Measures concerning restraint of trade and monopolies.
8. Holidays and celebrations.
9. Bankruptcy, mutiny, espionage, and counterfeiting.
10. State and territorial boundaries.
11. Meetings of Congress; attendance of Members.
12. Civil liberties.
13. Patents, copyrights, trademarks.
14. Immigration and naturalization.
15. Apportionment of Representatives.
16. Claims against the U.S.
17. Interstate compacts generally.

**Committee on National Security and Foreign Relations**

1. Common defense generally.
2. Departments of Defense, Army, Navy, Air Force.
3. Soldiers and sailors homes.
4. Benefits of members of the armed forces.
5. Selective service system.
6. Size and composition of the armed forces.
7. Forts, arsenals, military reservations, navy yards, depots.
8. Maintenance and operation of Panama Canal and Canal Zone.
9. Naval petroleum and oil shale reserves.
10. Strategic and critical materials.
11. Military aerospace matters.
12. Foreign relations generally.
13. Treaties and executive agreements, except trade.
14. Boundaries of the U.S.
15. Protection of U.S. citizens and businesses abroad.
16. Neutrality.
17. International conferences.
18. American Red Cross.
19. Intervention abroad and declarations of war.
20. Diplomatic Service.
21. United Nations.
22. Foreign assistance generally.
23. National security aspects of nuclear energy.

**Committee on Rules, Administration and Standards**

1. Payments of money out of the contingent fund.
2. Management of the Library of Congress; art for the Capitol; Botanic Gardens; monuments to individuals.
3. Smithsonian institution.
4. Federal elections generally.
5. Presidential succession.
6. Contested Federal elections.
7. Credentials and qualifications of Members of Congress.
8. Measures concerning parliamentary rules.
9. Administration of the Chamber generally.
10. Printing and correction of the Congressional Record.
11. Recommendations of rules to insure proper conduct by members, officers, employees of the Congress.
12. Receipt of complaints of improper conduct by Members, officers, employees.
13. Investigation of alleged violations of law or chamber rules.
14. Guidance, assistance and advice concerning franked mail.
15. Investigation of unauthorized disclosure of intelligence information.

**20 COMMITTEES PER CHAMBER****Underlying Philosophy**

1. Establishes a middle ground between the current House and Senate structures on number of committees.
2. Might require slight reduction in House Member assignments, with slight expansion in assignments per Senator.
3. Permits some degree of policy consolidation, yet allows special interest or smaller workload committees to remain in both chambers.
4. Retains option to establish separate committees to handle appropriations matters.

**HOUSE AND SENATE COMMITTEES**

Committee on Agriculture and Consumer Affairs  
Committee on Armed Services  
Committee on Budget  
Committee on Commerce, Banking, and Labor  
Committee on Communications  
Committee on Community Development  
Committee on Education  
Committee on Energy  
Committee on Government Review  
Committee on Health  
Committee on House Administration  
Committee on International Affairs  
Committee on Judiciary  
Committee on Natural Resources and Environment  
Committee on Science and Technology  
Committee on Rules  
Committee on Social Services  
Committee on Standards of Official Conduct  
Committee on Transportation  
Committee on Ways and Means

**20 COMMITTEES PER CHAMBER****Committee on Agriculture and Consumer Affairs**

1. Agricultural generally.
2. Consumer legislation.

**Committee on Armed Services**

1. Common defense generally, including Army, Navy, Air Force.
2. Selective Service.
3. Veterans measures.

**Committee on Budget**

1. Concurrent resolutions on the budget.

**Committee on Commerce, Banking, and Labor**

1. Economic stabilization, including wage and price controls.
2. Federal Reserve System.
3. Labor relations.
4. Wage and hour regulation.
5. Security exchanges.
6. Bankruptcy.
7. Small business.

**Committee on Communications**

1. Communications policy, licensing, regulation.
2. Information policy.
3. Information services, including Postal Service, Federal Register, National Archives, Census.
4. Copyrights and trademarks.
5. Cable television.
6. Public broadcasting.

**Committee on Community Development**

1. Housing and urban development.
2. Farmers Home Administration.
3. Economic development.
4. Public Buildings and grounds.
5. Land use planning.



6. Rural development.
7. Water and sewer programs.

#### **Committee on Education**

1. Federal education programs.
2. Manpower training.
3. Work incentive programs.
4. Science scholarships.

#### **Committee on Energy**

1. Federal Power Commission.
2. Bureau of Mines.
3. Civilian applications, licensing, and regulatory functions of atomic energy.
4. Economic regulation of energy industry.

#### **Committee on Government Review**

1. Defense procurement.
2. Efficiency and economy of Government.
3. Executive reorganization.

#### **Committee on Health**

1. Health generally.
2. Hospital construction.
3. Health personnel, including Public Health Service.
4. Biomedical research and development.
5. Veterans hospitals.
6. Maternal and child health.
7. Medicare and medicaid.
8. Health insurance.

#### **Committee on House Administration**

1. Contingent fund.
2. Congressional employees.
3. Congressional Record.
4. Internal Chamber operations.

**Committee on International Affairs**

1. Foreign affairs.
2. Customs administration.
3. Tariffs and trade.
4. P.L. 480.
5. International banking and finance.
6. Panama Canal.
7. Foreign economic and military aid.

**Committee on Judiciary**

1. Civil and criminal law and proceedings.
2. Civil liberties.
3. Crime.
4. Immigration and Naturalization.

**Committee on Natural Resources and Environment**

1. National forests and national parks.
2. Public lands.
3. Water resources.
4. Geological surveys.
5. Fisheries and wildlife.
6. Environmental policy.
7. Oceanography and coastal areas.
8. Geodetic surveys.
9. Water pollution.
10. Corps of engineers.
11. Flood control.
12. National Oceanic and Atmospheric Administration.

**Committee on Science and Technology**

1. NASA.
2. National Science Foundation.
3. Research and development.

**Committee on Rules**

1. Rules and procedures.

**Committee on Social Services**

1. Aid to Families with Dependent Children.

2. Social security program.
3. Unemployment compensation.
4. Veterans benefits.
5. Work incentive program.
6. Food stamps.

#### **Committee on Standards of Official Conduct**

1. Code of Official Conduct.

#### **Committee on Transportation**

1. Interstate Commerce Commission.
2. Federal Aviation Administration.
3. Civil Aeronautics Board.
4. National Railroad Passenger Corporation (Amtrak).
5. Inland waterways.
6. Maritime.
7. Highways.
8. Urban Mass transit.

#### **Committee on Ways and Means**

1. Internal Revenue Code.
2. General revenue sharing.
3. Social security, gas, and unemployment taxes.
4. Highway, airport, social security trust funds.

**37 COMMITTEES PER CHAMBER****Underlying Philosophy**

1. Reduces the need for and influence of subcommittees and subcommittee leadership positions.
2. Larger number of committees allows for smaller workload and more narrow policy breadth on each committee; may require more multiple referrals.
3. May encourage greater specialization with Members serving on more narrowly focused committees.
4. Could permit three assignments per House Member; may impose impossibly high number of assignments per Senator.
5. Expands leadership opportunities to chair full committees.

**HOUSE AND SENATE COMMITTEES**

Committee on Agriculture  
 Committee on Appropriations  
 Committee on Armed Services  
 Committee on Banking and Currency  
 Committee on Budget  
 Committee on Communications  
 Committee on Consumer Affairs  
 Committee on Corrections  
 Committee on District of Columbia  
 Committee on Economic Regulation  
 Committee on Education  
 Committee on Energy  
 Committee on Environment  
 Committee on Food and Drug Safety  
 Committee on Foreign Affairs  
 Committee on Government Operations  
 Committee on Health  
 Committee on House Management and Budget  
 Committee on Housing and Community Development  
 Committee on Intergovernmental Relations  
 Committee on International Trade  
 Committee on Judiciary  
 Committee on Labor and Manpower  
 Committee on Merchant Marine and Fisheries  
 Committee on National Goals and Growth Policies (nonlegislative)  
 Committee on Natural Resources  
 Committee on Public Employment  
 Committee on Revenue and Ways and Means  
 Committee on Rules  
 Committee on Science and Technology  
 Committee on Separation of Powers  
 Committee on Small Business  
 Committee on Social Services  
 Committee on Surface Transportation  
 Committee on Standards of Official Conduct  
 Committee on Veterans Affairs  
 Select Committee on Intelligence



**37 COMMITTEES PER CHAMBER****Committee on Agriculture**

1. Agriculture generally.
2. Inspection of meat, livestock, agricultural products.
3. Dairy industry.
4. Food programs.

**Committee on Appropriations**

1. Appropriations of revenue for support of government.
2. Recessions of appropriations.
3. Transfers of unexpected balances.

**Committee on Armed Services**

1. Common defense generally.

**Committee on Banking and Currency**

1. Domestic banking regulation, including FDIC, Home loan bank board.
2. Currency regulation.

**Committee on Budget**

1. Concurrent resolution on the budget.

**Committee on Communications**

1. Federal Communications Commission.
2. Radio and television.
3. Information technology.
4. Postal Service.
5. Copyright.

**Committee on Consumer Affairs**

1. Fair advertising and labelling.
2. Consumer product safety.
3. Motor vehicle safety.
4. No-fault insurance.
5. Consumer credit.

**Committee on Corrections**

1. Penal institutions.
2. Military stockades.
3. Rehabilitation programs.
4. Juvenile and drug treatment programs.
5. Parole and probation.

**Committee on District of Columbia**

1. Matters relating to the municipal affairs of the District of Columbia.

**Committee on Economic Regulation**

1. Antitrust legislation.
2. Security regulation.
3. Bankruptcy policies.
4. Insurance.

**Committee on Education**

1. Federal education programs.

**Committee on Energy**

1. Water power.
2. Federal Power Commission.
3. Energy allocation.
4. Mining and energy research and development.
5. Naval oil reserves.
6. Water and power resources.

**Committee on Environment**

1. Air, noise, water pollution.
2. Solid waste disposal.
3. National Environmental Policy Act.

**Committee on Food and Drug Safety**

1. Product safety, labeling and advertising.
2. Pesticides.
3. Food and Drug Administration.

**Committee on Foreign Affairs**

1. International banking institutions.
2. Panama Canal.
3. Sugar Act.

**Committee on Government Operations**

1. Efficiency, economy, effectiveness of government activities.
2. Oversight for General Accounting Office.

**Committee on Health**

1. Biomedical research and development.
2. Medicare and medicaid.
3. National health insurance legislation.
4. Hospital construction.
5. Emergency medical services.
6. Public Health Service.
7. National Institute of Health.
8. Military hospitals.

**Committee on House/Senate Management and Budget**

1. Internal chamber operations and administration.
2. Joint services to the Congress.

**Committee on Housing and Community Development**

1. Housing programs.
2. Farmers Home Administration.
3. Water and sewers.
4. Economic development.
5. Public buildings and grounds.
6. Rural and urban development programs.

**Committee on Intergovernmental Relations**

1. Revenue sharing.
2. Interstate compacts.
3. Census.
4. Governmental statistics.
5. Intergovernmental personnel and statistics.

**Committee on International Trade**

1. P.L. 480.
2. Adjustment assistance.
3. Customs administration.
4. Import quotas.
5. Reciprocal agreements and tariffs.

**Committee on Judiciary**

1. Constitutional amendments and law.
2. Federal courts.
3. Crime.
4. Law enforcement assistance.
5. Immigration.

**Committee on Labor and Manpower**

1. Holidays and celebrations.
2. Labor standards.
3. Occupational safety and health.
4. Pension plans.
5. Labor management relations.
6. Compensation.

**Committee on Merchant Marine and Fisheries**

1. Fishing.
2. Shipbuilding and ship regulation.
3. Coast Guard.
4. Fisheries and oceanography.

**Committee on National Goals and Growth Policies (nonlegislative)**

1. National economic conditions and policies.
2. Economic report of the President.

**Committee on Natural Resources**

1. National forests and Forest Service.
2. Public lands.
3. Management of coastal areas.
4. Outer continental shelf lands.



**Committee on Public Employment**

1. Civil service employees.
2. Postal service workers.
3. Diplomatic personnel.
4. Civilian and military personnel, including military reserves and National Guard.

**Committee on Revenue and Ways and Means**

1. Individual and corporate income taxes.
2. Excise taxes.
3. Airport, highway, social security trust funds.

**Committee on Rules**

1. Chamber rules and procedures.

**Committee on Science and Technology**

1. Patents and trademarks.

**Committee on Separation of Powers**

1. Administrative practices and procedures.
2. Executive reorganization.
3. Executive Office of the President, including OMB.
4. Freedom of Information Act.

**Committee on Small Business**

1. Assistance to and protection of small businesses.

**Committee on Social Services**

1. Food stamps.
2. Unemployment compensation.
3. Social security programs.
4. Indians.
5. Older Americans Act.
6. Child care.

**Committee on Surface Transportation**

1. Mass Transit.
2. Highways.
3. Railroads.
4. Regulation of interstate transportation.

**Committee on Standards of Official Conduct**

1. Campaign financing.
2. Franking privilege.
3. Ethics code.
4. Lobbying.

**Committee on Veterans Affairs**

1. Veterans measures generally.

**Select Committee on Intelligence**

1. Intelligence operations and agencies of the United States.

## COMMITTEE AND SUBCOMMITTEE REDUCTION PLAN

### Underlying Philosophy

1. Fifty total work units optimum goal.
2. Generally, one committee assignment per Senator or Representative.
3. Greater House size requires more committees to reduce average committee size.
4. Remaining committees to roughly parallel each other.
5. To get close to fifty unit goal, most committees may have no more than three subcommittees, with larger workload panels permitted five, and committees with smaller workloads having none.
6. Retains option for separate rules and ethics committees.

### HOUSE COMMITTEES

Committee on Banking and  
Economic Development  
Committee on Commerce and  
Science  
Committee on Energy  
Committee on Fiscal Affairs  
Committee on Government  
Operations and  
Management  
Committee on Human  
Resources  
Committee on National  
Security  
Committee on Natural  
Resources  
Committee on Rules  
Committee on Transportation  
and Public Works

### SENATE COMMITTEES

Committee on Banking &  
Economic Development  
Committee on Commerce &  
Science  
Committee on Energy  
Committee on Fiscal Affairs  
Committee on Human  
Resources  
Committee on National  
Security  
Committee on Natural  
Resource  
Select Committee on Ethics  
Select Committee on  
Government Management

Joint Committee on Administration

**COMMITTEE AND SUBCOMMITTEE REDUCTION PLAN****HOUSE COMMITTEES****Committee on Banking and Economic Development**

1. Rural development.
2. Banks and banking, including deposit insurance and Federal monetary policy.
3. Money and credit, including currency and the issuance of notes and redemption thereof; gold and silver, including the coinage thereof; valuation and revaluation of the dollar.
4. Urban development.
5. Public and private housing.
6. Economic stabilization, defense production, renegotiation, and control of the price of commodities, rents, and services.
7. International finance.
8. Financial aid to commerce and industry (other than transportation).
9. International Financial and Monetary organizations.

**Committee on Commerce and Science**

1. Interstate and foreign commerce generally.
2. Regulation of interstate and foreign communications.
3. Securities and exchange.
4. Consumer affairs and consumer protection.
5. Travel and tourism.
6. Measures to foster commercial intercourse with foreign nations and to safeguard American business interest abroad.
7. Measures relating to international economic policy.
8. Export controls, including nonproliferation of nuclear technology and nuclear hardware.
9. International commodity agreements (other than those involving sugar), including all agreements for cooperation in the export of nuclear technology and nuclear hardware.
10. Trading with the enemy.
11. Interstate compacts generally.
12. Patent Office.
13. Patents, copyrights, and trademarks.
14. Protection of trade and commerce against unlawful restraints and monopolies.
15. Census and the collection of statistics generally.
16. Population and demography.
17. Astronautical research and development, including resources, personnel, equipment, and facilities.
18. Bureau of Standards, standardization of weights and measures and the metric system.



19. National Aeronautics and Space Administration.
20. National Aeronautics and Space Council.
21. National Science Foundation.
22. Outer space, including exploration and control thereof.
23. Science scholarships.
24. Scientific research, development, and demonstration, and projects therefor.
25. Civil aviation research and development.
26. Environmental research and development.
27. All energy research, development, and demonstration, and projects therefor, and all federally owned or operated nonmilitary energy laboratories.
28. National Weather Service.
29. Assistance to and protection of small business, including financial aid.
30. Participation of small-business enterprises in Federal procurement and Government contracts.
31. Transportation of dutiable goods.
32. Copyrights, the Copyright Office and Tribunal, and international copyright conventions.

#### Committee on Energy

1. Rural electrification.
2. Conservation, development, and use of naval petroleum and oil shale reserves.
3. National energy policy generally.
4. Measures relating to the exploration, production, storage, supply, marketing, pricing, and regulation of energy resources, including all fossil fuels, solar energy, and other unconventional or renewable energy resources.
5. Measures relating to the conservation of energy resources.
6. Measures relating to the commercial application of energy technology.
7. Measures relating to energy information generally.
8. Measures relating to (A) the generation and marketing of power (except by federally chartered or Federal regional power marketing authorities), (B) the reliability and interstate transmission of, and ratemaking for, all power, and (C) the siting of generation facilities; except the installation of interconnections between Government waterpower projects.
9. Interstate energy compacts.
10. Measures relating to general management of the Department of Energy, and the management and all functions of the Federal Energy Regulatory Commission.
11. Petroleum conservation on the public lands and conservation of the radium supply in the United States.
12. Regulation of the domestic nuclear energy industry, including regulation of research and development reactors and nuclear regulatory research.
13. Water power.

**Committee on Fiscal Affairs**

1. Appropriation of the revenue for the support of the Government.
2. Rescissions of appropriations contained in appropriations Acts.
3. Transfers of unexpected balances.
4. The amount of new spending authority (as described in the Congressional Budget Act of 1974) which is to be effective for a fiscal year, including bills and resolutions (reported by other committees) which provide new spending authority and are referred to the committee under clause 4(a).
5. All concurrent resolutions on the budget (as defined in section 3(a)(4) of the Congressional Budget Act of 1974) and other matters required to be referred to the committee under titles III and IV of that Act, and any resolution pursuant to section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.
6. The committee shall have the duty—
  - A. to report the matters required to be reported by it under titles III and IV of the Congressional Budget Act of 1974;
  - B. to make continuing studies of the effect on budget outlays of relevant existing and proposed legislation and to report the results of such studies to the House on a recurring basis;
  - C. to request and evaluate continuing studies of tax expenditures, to devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and to report the results of such studies to the House on a recurring basis; and
  - D. to review, on a continuing basis, the conduct by the Congressional Budget Office of its functions and duties.
7. Customs, collection districts, and ports of entry and delivery.
8. Reciprocal trade agreements.
9. Revenue measures generally.
10. Revenue measures relating to the insular possessions.
11. [Revenue aspects of customs, reciprocal trade agreements, the transportation of dutiable goods, and other international commercial activities]
12. [Revenue aspects of pension and health programs financed by payroll deductions or other specific tax]
13. The bonded debt of the United States.
14. The deposit of public money.
15. [Revenue aspects of] Tax exempt foundations and charitable trusts.

**Committee on Government Operations and Management**

1. All measures relating to the municipal affairs of the District of Columbia in general, other than appropriations therefor, including—
2. Adulteration of foods and drugs.
3. Incorporation and organization of societies.
4. Insurance, executors, administrators, wills, and divorce.
5. Municipal code and amendments to the criminal and corporation laws.
6. Municipal and juvenile courts.
7. Public health and safety, sanitation, and quarantine regulations.
8. Regulation of sale of intoxicating liquors.
9. Taxes and tax sales.
10. Saint Elizabeth hospital.
11. Budget and accounting measures, other than appropriations.
12. The overall economy and efficiency of Government operations and activities, including Federal procurement.
13. Reorganizations in the executive branch of the Government.
14. Intergovernmental relationships between the United States and the States and municipalities, and general revenue sharing.
15. National archives.
16. Measures providing for off-budget treatment of Federal agencies or programs.
17. Measures relating to the disposition of useless executive papers.
18. Judicial proceedings, civil and criminal generally.
19. Bankruptcy, mutiny, espionage, and counterfeiting.
20. Civil liberties.
21. Constitutional amendments.
22. Federal courts and judges.
23. Immigration and naturalization.
24. Local courts in the Territories and possessions.
25. Measures relating to claims against the United States.
26. National penitentiaries.
27. Revision and codification of the Statutes of the United States.
28. State and territorial boundary lines.
29. Communist and other subversive activities affecting the internal security of the United States.
30. All Federal Civil Service, including intergovernmental personnel.
31. Postal-savings banks.
32. Postal service generally, including the railway mail service, and measures relating to ocean mail and pneumatic-tube service; but excluding post roads.
33. Status of officers and employees of the United States, including their compensation, classification and retirement.
34. Hatch Act.
35. Holidays and celebrations.
36. Measures relating generally to the insular possessions of the United States, except those affecting the revenue and appropriations.
37. Relations of the United States with the Indians and the Indian tribes.

**Committee on Human Resources**

1. Human nutrition and home economics.
2. Measures relating to education or labor generally.
3. Child labor.
4. Columbia Institution for the Deaf, Dumb, and Blind; Howard University; Freedmen's Hospital.
5. Convict labor and the entry of goods made by convicts into interstate commerce.
6. Labor standards.
7. Labor statistics.
8. Mediation and arbitration of labor disputes.
9. Regulation or prevention of importation of foreign laborers under contract.
10. Food programs for children in schools.
11. United States Employees' Compensation Commission.
12. Vocational rehabilitation.
13. Wages and hours of labor.
14. Welfare of miners.
15. Work incentive programs.
16. Public health and quarantine.
17. Health and health facilities.
18. Biomedical research and development.
19. Measures relating to the care and management of Indians, including the care and allotment of Indian lands and general and special measures relating to claims which are paid out of Indian funds.
20. Veterans' measures generally.
21. Compensation, vocational rehabilitation, and education of veterans.
22. Life insurance issued by the Government on account of service in the Armed Service.
23. Pensions of all the wars of the United States, general and special.
24. Readjustment of servicemen to civil life.
25. Soldiers' and sailors' civil relief.
26. Veterans' hospitals, medical care, and treatment of veterans.
27. National Social Security, Medicare, and Medicaid.

**Committee on National Security**

1. Common defense generally.
2. The Department of Defense generally, including the Departments of the Army, Navy, and Air Force generally.
3. Ammunition depots; forts; arsenals; Army, Navy and Air Force reservations and establishments.
4. Pay, promotion, retirement, and other benefits and privileges of members of the armed forces.
5. Scientific research and development in support of the armed services.
6. Selective service.
7. Size and composition of the Army, Navy, and Air Force.
8. Soldiers' and sailors' homes.



9. Strategic and critical materials necessary for the common defense.
10. Military applications of nuclear energy.
11. Relations of the United States with foreign nations generally.
12. Acquisition of land and buildings for embassies and legations in foreign countries.
13. Establishment of boundary lines between the United States and foreign nations.
14. Foreign loans.
15. International conferences and congresses.
16. Intervention abroad and declarations of war.
17. Measures relating to the diplomatic service, including the Department of State, the Peace Corps, and U.S. Information Agency.
18. Neutrality.
19. Protection of American citizens abroad and expatriation.
20. The American National Red Cross.
21. United Nations Organizations.
22. International education.
23. The Central Intelligence Agency and Director of Central Intelligence.
24. Intelligence and intelligence-related activities of all other departments and agencies of the Government, including, but not limited to the intelligence and intelligence related activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of State; the Department of Justice; and the Department of the Treasury.
25. The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence or intelligence-related activities.
26. Authorizations for appropriations, both direct and indirect, for the following:
  - A. The Central Intelligence Agency and Director of Central Intelligence.
  - B. The Defense Intelligence Agency.
  - C. The National Security Agency.
  - D. The intelligence and intelligence-related activities of other agencies and subdivisions of the Department of Defense.
  - E. The intelligence and intelligence-related activities of the Department of State.
  - F. The intelligence and intelligence-related activities of the Federal Bureau of Investigations, including all activities of the Intelligence Division.
  - G. Any department, agency, or subdivision which is the successor to any agency named in subdivision (A), (B), or (C); and the

activities of any department, agency, or subdivision which is the successor to any department, agency, bureau, or subdivision named in subdivision (D), (E), or (F), to the extent that the activities of such successor department, agency, or subdivision are activities described in subdivision (D), (E), or (F).

### Committee on Natural Resources

1. Adulteration of seeds, insect pests, and protection of birds and animals in forest reserves.
2. Agriculture generally.
3. Agricultural and industrial chemistry.
4. Agricultural colleges and experiment stations.
5. Agricultural economics and research.
6. Agricultural education extension services.
7. Agricultural production and marketing and stabilization of prices of agricultural products, and commodities (not including distribution outside of the United States).
8. Animal industry and diseases of animals.
9. Crop insurance and soil conservation.
10. Dairy industry.
11. Entomology and plant quarantine.
12. Extension of farm credit and farm security.
13. Forestry in general, and forest reserves other than those created from the public domain.
14. Inspection of livestock and meat products.
15. Plant industry, soils, and agricultural engineering.
16. Oceanography and Marine Affairs, including coastal zone management.
17. Fisheries and wildlife, including research, restoration, refuges, and conservation.
18. International fishing agreements.
19. Forest reserves and national parks created from the public domain.
20. Forfeiture of land grants and alien ownership, including alien ownership of mineral lands.
21. Geological Survey.
22. Interstate compacts relating to apportionment of waters for irrigation purposes.
23. Irrigation and reclamation, including water supply for reclamation projects, and easements of public lands for irrigation projects, and acquisition of private lands when necessary to complete irrigation projects.
24. Military parks and battlefields; national cemeteries administered by the Secretary of the Interior, and parks within the District of Columbia.
25. Mineral land laws and claims and entries thereunder.
26. Mineral resources of the public lands.
27. Mining interests generally.
28. Mining schools and experimental stations.

29. Preservation of prehistoric ruins and objects of interests on the public domain.
30. Public lands, generally, including entry, easements, and grazing thereon.
31. Flood control
32. Oil and other pollution of navigable waters.
33. Cemeteries of the United States in which veterans of any war or conflict are or may be buried, whether in the United States or abroad, except cemeteries administered by the Secretary of the Interior.

#### **Committee on Rules**

1. The rules and joint rules (other than rules or joint rules relating to the Code of Official Conduct), and order of business of the House.
2. Emergency waivers (under the Congressional Budget Act of 1974) of the required reporting date for bills and resolutions authorizing new budget authority.
3. Recesses and final adjournment of Congress.

#### **Committee on Transportation and Public Works**

1. Inland waterways.
2. Railroads, including railroad labor, railroad retirement and unemployment, except revenue measures related thereto.
3. improvement of rivers and harbors.
4. Measures relating to the Capitol Building and the Senate and House Office Buildings.
5. Measures relating to the construction or maintenance of roads and post roads, other than appropriations therefor; but it shall not be in order for any bill providing general legislation in relation to roads to contain any provision for any specific road, nor for any bill in relation to a specific road to embrace a provision in relation to any other specific road.
6. Measures relating to the construction or reconstruction, maintenance, and care of the buildings and grounds of the Botanic Gardens, the Library of Congress, and the Smithsonian Institution.
7. Measures relating to the purchase of sites and construction of post offices, customhouses, Federal courthouses, and Government buildings within the District of Columbia.
8. Public buildings and occupied or improved grounds of the United States generally.
9. Public works for the benefit of navigation, including bridges and dams (other than international bridges and dams).
10. Transportation, including civil aviation except railroads, railroad labor and pensions.
11. Roads and safety thereof.
12. Water transportation subject to the jurisdiction of the Interstate Commerce Commission.

13. Related transportation regulatory agencies, except (A) the Interstate Commerce Commission as it relates to railroads; (B) Federal Railroad Administration; and (C) Amtrak.
14. Merchant marine generally.
15. Coast Guard, including lifesaving service, lighthouses, lightships, and ocean derelicts.
16. Measures relating to the regulation of common carriers by water (except matters subject to the jurisdiction of the Interstate Commerce Commission) and to the inspection of merchant marine vessels, lights and signals, lifesaving equipment, and fire protection on such vessels.
17. Merchant marine officers and seamen.
18. Navigation and the laws relating thereto, including pilotage.
19. Panama Canal and the maintenance and operation of the Panama Canal, including the administration, sanitation, and government of the Canal Zone; and interoceanic canals generally.
20. Registering and licensing of vessels and small boats.
21. Rules and international arrangements to prevent collisions at sea.
22. United States Coast Guard and Merchant Marine Academies, and State Maritime Academies.

#### **Joint Committee on Administration**

1. Measures relating to the Code of Official Conduct.
2. Appropriations from the contingent fund.
3. Auditing and settling of all accounts which may be charged to the contingent fund.
4. Employment of persons by the House, including clerks for Members and committees, and reporters of debates.
5. Matters relating to the Library of Congress, and the House Library; statuary and pictures; acceptance or purchase of works of art for the Capitol; the Botanic Gardens; management of the Library of Congress; purchase of books and manuscripts; erection of monuments to the memory of individuals.
6. Matters relating to the Smithsonian Institution and the incorporation of similar institutions.
7. Expenditure of contingent funds of the House.
8. Matters relating to printing and correction of the Congressional Record.
9. Measures relating to accounts of the House generally.
10. Measures relating to assignment of office space for Members and committees.
11. Measures relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; credentials and qualifications; and Federal elections generally.
12. Measures relating to services to the House, including the House Restaurant, parking facilities and administration of the House Office Buildings and of the House wing of the Capitol.
13. Measures relating to the travel of Members of the House.



14. Measures relating to the raising, reporting and use of campaign contributions for candidates for office of Representative in the House of Representatives and of Resident Commissioner to the United States from Puerto Rico.
15. Measures relating to the compensation, retirement and other benefits of the Members, officers, and employees of the Congress.
16. Apportionment of Representatives.
17. Meetings of Congress, attendance of Members and their acceptance of incompatible offices.
18. Presidential succession.

## SENATE COMMITTEES

### Committee on Banking & Economic Development

1. Rural development.
2. Banks, banking, and financial [services and] institutions.
3. Control of prices of commodities, rents, and services.
4. Deposit insurance.
5. Economic stabilization and defense production.
6. Federal monetary policy, including Federal Reserve System.
7. Financial aid to commerce and industry.
8. Issuance and redemption of notes.
9. Money and credit, including currency and coinage.
10. Urban development
11. Strategic and critical materials necessary for the common defense.
12. [Housing]
13. Regional economic development.
14. Census and collection of statistics, including economic and social statistics.
15. Bankruptcy, and counterfeiting.

Matters relating to the Small Business Administration (subject to review and reporting by other Standing Committee with jurisdiction over the functions of SBA and vice versa). Study and survey by means of research and investigation all problems of American small business enterprises.

### Committee on Commerce & Science

1. Maintenance and operation of the Panama Canal, including administration, sanitation, and government of the Canal Zone.
2. Naval petroleum reserves, except those in Alaska.
3. Export and foreign trade promotion.
4. Export controls.
5. Urban mass transit.
6. Coast Guard.
7. Coastal zone management.

8. Communications.
9. Highway safety.
10. Inland waterways, except construction.
11. Interstate commerce.
12. Marine and ocean navigation, safety, and transportation, including navigational aspects of deepwater ports.
13. Marine fisheries.
14. Merchant marine and navigation.
15. Nonmilitary aeronautical and space sciences.
16. Oceans, weather, and atmospheric activities.
17. Panama Canal and interoceanic canals generally, except as provided in Committee on National Security.
18. Except for credit, financial services, regulation of consumer products and services, including testing related to toxic substances.
19. Regulation of interstate common carriers, including railroads, buses, trucks, vessels, pipelines, and civil aviation.
20. Science, engineering, and technology research and development and policy.
21. Sports.
22. Standards and measurement.
23. Transportation.
24. Transportation and commerce aspects of Outer Continental Shelf lands.
25. Construction and maintenance of highways.
26. Public works, bridges, and dams.
27. Reciprocal trade agreements.
28. Tariffs and import quotas, and matters related thereto.
29. Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.
30. Interstate compacts generally.
31. Patent Office.
32. Patents, copyrights, and trademarks.
33. Protection of trade and commerce against unlawful restraints and monopolies.

### Committee on Energy

1. Rural electrification.
2. Coal,[oil, and natural gas] production, distribution, and utilization.
3. Energy policy.
4. Energy regulation and conservation.
5. Energy related aspects of deepwater ports.
6. Energy research and development.
7. Hydroelectric power, irrigation, and reclamation.
8. Naval petroleum reserves in Alaska.
9. Nonmilitary development of nuclear energy.
10. Oil and gas production and distribution.
11. Solar energy systems.
12. Organization and management of United States nuclear export policy.

**Committee on Fiscal Affairs**

1. Appropriation of the revenue for the support of the Government.
2. Rescission of appropriations contained in appropriation Acts.
3. The amount of new spending authority described the Congressional Budget Act of 1974 which is to be effective for a fiscal year.
4. New spending authority described in the Congressional Budget Act of 1974.
5. For the purpose of obtaining and laying factual data and information before the Senate Committee, the chairman is authorized to appoint and employ experts to obtain data and information and examine the books, documents, papers, reports, or other records of any department, agency, or establishment of the Federal Government.
6. Bonded debt of the United States, except as provided in the Congressional Budget Act of 1974.
7. Customs, collection districts, and ports of entry and delivery.
8. Deposit of public moneys.
9. General revenue sharing.
10. Revenue measures generally.
11. Revenue measures relating to the insular possessions.
12. Transportation of dutiable goods.
13. [Revenue aspects only of reciprocal trade agreements, tariffs and import quotas, the Social Security Act, health programs financed by a specific tax or trust fund, or government programs generally financed by a specific tax or trust fund.]
14. Budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974.

All concurrent resolutions on the budget (as defined in section 3(a)(4) of the Congressional Budget Act of 1974) and all other matters required to be referred to that committee under titles III and IV of that Act.

To report that matters required to be reported by it under titles III and IV of the Congressional Budget Act of 1974;

To make continuing studies of the effect on budget outlays of relevant existing and proposed legislation and to report the results of such studies to the Senate on a recurring basis;

To request and evaluate continuing studies of tax expenditures, to devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and to report the results of such studies to the Senate on a recurring basis; and

To review, on a continuing basis, the conduct by the Congressional Budget Office of its functions and duties.

**Committee on Human Resources**

1. Food stamp programs.
2. Human nutrition.
3. School nutrition programs.
4. Nursing home construction.
5. Public and private housing (including veterans' housing).
6. Health programs under the Social Security Act and health programs financed by a specific tax or trust fund.
7. National social security.
8. All proposed legislation, messages, petitions, memorials, and other matters relating to Indian affairs shall be referred to the select committee.
9. Civil liberties.
10. Immigration and naturalization.
11. National penitentiaries.
12. Measures relating to education, labor, health, and public welfare.
13. Aging.
14. Agricultural colleges.
15. Arts and humanities.
16. Biomedical research and development.
17. Child labor.
18. Convict labor and the entry of goods made by convicts into interstate commerce.
19. Domestic activities of the American National Red Cross.
20. Equal employment opportunity.
21. Gallaudet College, Howard University, and Saint Elizabeth Hospital.
22. Handicapped individuals.
23. Labor standards and labor statistics.
24. Mediation and arbitration of labor disputes.
25. Occupational safety and health, including the welfare of miners.
26. Private pension plans.
27. Public health.
28. Railway labor and retirement.
29. Regulation of foreign laborers.
30. Student loans.
31. Wages and hours of labor.
32. Compensation of veterans.
33. Life insurance issued by the Government on account of service in the Armed Forces.
34. Pensions of all wars of the United States, general and special.
35. Readjustment of servicemen to civil life.
36. Soldiers' and sailors' civil relief.
37. Veterans' hospitals, medical care and treatment of veterans.
38. Veterans' measures generally.
39. Vocational rehabilitation and education of veterans.



**Committee on National Security**

1. Aeronautical and space activities peculiar to or primarily associated with the development of weapons systems or military operations.
2. Common defense.
3. Department of Defense, the Department of the Army, the Department of the Navy, and the Department of the Air Force, generally.
4. Military research and development.
5. National security aspects of nuclear energy.
6. Pay, promotion, retirement, and other benefits and privileges of members of the Armed Forces, including overseas education of civilian and military dependents.
7. Selective service system.
8. Acquisition of land and buildings for embassies and legations in foreign countries.
9. Boundaries of the United States.
10. Diplomatic service, including the Department of State, Peace Corps, and the U.S. Information Agency.
11. Foreign economic, military, technical, and humanitarian assistance.
12. Foreign loans.
13. International activities of the American National Red Cross and the International Committee of the Red Cross.
14. International aspects of nuclear energy, including nuclear transfer policy.
15. International conferences and congresses.
16. International law as it relates to foreign policy.
17. International Monetary Fund and other international organizations established primarily for international monetary purposes (except that, at the request of the Committee on Banking, Housing, and Urban Affairs, any proposed legislation relating to such subjects reported by the Committee on Foreign Relations shall be referred to the Committee on Banking, Housing and Urban Affairs).
18. Intervention abroad and declarations of war.
19. National security and international aspects of trusteeships of the United States.
20. Oceans and international environmental and scientific affairs as they relate to foreign policy.
21. Protection of United States citizens abroad and expatriation.
22. Relations of the United States with foreign nations generally.
23. Treaties and executive agreements, except reciprocal trade agreements.
24. United Nations and its affiliated organizations.
25. World Bank group, the regional development banks, and other international organizations established primarily for development assistance purposes.
26. Mutiny, espionage,
27. The Central Intelligence Agency and the Director of Central Intelligence.
28. Intelligence activities of all other departments and agencies of the Government, including, but not limited to, the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and

other agencies of the Department of Defense; the Department of State; the Department of Justice; and the Department of the Treasury.

29. The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.
30. Authorizations for appropriations, both direct and indirect, for the following:
  - A. The Central Intelligence Agency and Director of Central Intelligence.
  - B. The Defense Intelligence Agency.
  - C. The National Security Agency.
  - D. The intelligence activities of other agencies and subdivisions of the Department of Defense.
  - E. The intelligence activities of the Department of State.
  - F. The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.
  - G. Any department, agency, or subdivision which is the successor to any agency named in clause (A), (B), or (C); and the activities of any department, agency, or subdivision which is the successor to any department, agency, bureau, or subdivision named in the clause (D), (E), or (F) to the extent that the activities of such successor department, agency, or subdivision are activities described in clause (D), (E), or (F).

#### Committee on Natural Resources

1. Agricultural economics and research.
2. Agricultural extension services and experiment stations.
3. Agricultural production, marketing, and stabilization of prices.
4. Agriculture and agricultural commodities.
5. Animal industry and diseases.
6. Crop insurance and soil conservation.
7. Farm credit and farm security.
8. Food from fresh waters.
9. Forestry, and forest reserves and wilderness areas.
10. Home economics.
11. Inspection of livestock, meat, and agricultural products.
12. Pests and pesticides.
13. Plant industry, soils, and agricultural engineering.
14. Pests and pesticides.
15. Extraction of minerals from oceans and Outer Continental Shelf lands.
16. Mining education and research.

17. Mining, mineral lands, mining claims, and mineral conservation.
18. National parks, recreation areas, wilderness areas, wild and scenic rivers, historical sites, military parks and battlefields, and on the public domain, preservation of prehistoric ruins and objects of interest.
19. Public lands and forests, including farming and grazing thereon, and mineral extraction therefrom.
20. Air pollution.
21. Environmental aspects of Outer Continental Shelf lands.
22. Environmental effects of toxic substances, other than pesticides.
23. Environmental policy.
24. Environmental research and development.
25. Fisheries and wildlife.
26. Flood control and improvement of rivers and harbors, including environmental aspects of deepwater ports.
27. Noise pollution.
28. Nonmilitary environmental regulation and control of nuclear energy.
29. Ocean dumping.
30. Solid waste disposal and recycling.
31. Water pollution.
32. Water resources.
33. National cemeteries.

#### Select Committee on Ethics

1. Corrupt practices.
2. Receives complaints and investigates allegations of improper conduct which may reflect upon the Senate, violations of law, violations of the Senate Code of Official Conduct, and violations of rules and regulations of the Senate, relating to the conduct of individuals in the performance of their duties as Members of the Senate, or as officers or employees of the Senate, and to make appropriate findings of fact and conclusions with respect thereto.
3. Recommends to the Senate by report or resolution by a majority vote of the full committee disciplinary action (including, but not limited to, in the case of a Member: censure, expulsion, or recommendation to the appropriate party conference regarding such Member's seniority or positions of responsibility; and, in the case of an officer or employee: suspension or dismissal) to be taken with respect to such violations which the Select Committee shall determine, after according to the individuals concerned due notice and opportunity for hearing, to have occurred.
4. Recommends to the Senate, by report or resolution, such additional rules or regulations as the Select Committee shall determine to be necessary or desirable to insure proper standards of conduct by Members of the Senate, and by officers or employees of the Senate, in the performance of their duties and the discharge of their responsibilities.
5. Reports violation by a majority vote of the full committee of any law to the proper Federal and State authorities.

6. Transmits to the Senate its recommendation as to any legislative measures which it may consider to be necessary for the effective discharge of its duties.
7. Prescribes and publishes such regulations as it feels are necessary to implement the Senate Code of Official Conduct.
8. Issues interpretative rulings explaining and clarifying the application of any law, the Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction.
9. Renders advisory opinions, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nominations for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.
10. In its discretion, may render an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.
11. The advisory opinions issued by the Select Committee shall be compiled, indexed, reproduced, and made available on a periodic basis.
12. Is responsible for administering the reporting requirement of Title I of the Ethics in Government Act of 1978 are assigned to the Select Committee on Ethics.

*Investigative Procedures.* When the Select Committee receives a sworn complaint against a Member or officer of the Senate, it shall promptly conduct an initial review of that complaint. If as a result of an initial review the Select Committee determines by a recorded vote that there is not such substantial credible evidence, the Select Committee shall report such determination to the complainant and to the party charged, together with an explanation of the basis of such determination. If as a result of an initial review the Select Committee determines that a violation is inadvertent, technical, or otherwise of a de minimis nature, the Select Committee may attempt to correct or prevent such a violation by informal methods. If as the result of an initial review the Select Committee determines that [a] violation, if proven, is neither of a de minimis nature nor sufficiently serious to justify any of the penalties expressly referred to in subsection (a)(2), the Select Committee may propose a remedy it deems appropriate. If the matter is thereby resolved, a summary of the Select Committee's conclusions and the remedy proposed shall be filed as a public record with the Secretary of the Senate and a notice of such filing shall be printed in the Congressional Record. If as the result of an initial review the Select Committee determines that there is such substantial credible evidence, the Select Committee shall promptly conduct an investigation. Upon the conclusion of [any] investigation, the Select Committee shall report to the Senate, as soon as practicable, the results of such investigation together with its recommendations (if any) pursuant to subsection (a)(2). Upon the conclusion of any other investigation respecting the conduct of a Member or officer



undertaken by the Select Committee, the Select Committee shall report to the Senate, as soon as practicable, the results of such investigation together with its recommendations (if any) pursuant to subsection (a)(2).

*Public Financial Disclosure.* The Select Committee on Ethics shall transmit a copy of each report filed with it under title I of the Ethics in Government Act of 1978 to the head of the employing office of the individual filing the report.

*Gifts.* No Member, officer, or employee of the Senate, or the spouse or dependent thereof, shall knowingly accept, directly or indirectly, any gift or gifts in any calendar year aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or \$250, whichever is greater, from any person, organization, or corporation unless, in an unusual case, a waiver is granted by the Select Committee on Ethics.

Notwithstanding the provisions of this rule, a Member, officer, or employee of the Senate may participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization if such participation is not in violation of any law and if the Select Committee on Ethics has determined that participation in such program by Members, officer, or employees of the Senate is in the interests of the Senate and the United States.

Any Member who accepts an invitation to participate in any such program shall notify the Select Committee in writing of his acceptance. A Member shall also notify the Select Committee in writing whenever he has permitted any officer or employee whom he supervises to participate in any such program. The chairman of the Select Committee shall place in the Congressional Record a list of all individuals participating; the supervisors of such individuals, where applicable, and the nature and itinerary of such program.

No Member, officer, or employees may accept funds in connection with participation in a program permitted under subparagraph (a) if such funds are not used for necessary food, lodging, transportation, and related expenses of the Member, officer, or employee.

If the Committee on Ethics of the Senate determines that there is reasonable basis to believe that a Member, officer, or employee of the Senate may have committed an ethics violation, the committee may request the Office of Special Investigations of the General Accounting Office to conduct factfinding and an investigation into the matter. The Office of Special Investigation shall promptly investigate the matter as directed by the committee.

The Select Committee shall provide guidance, assistance, advice and counsel, through advisory opinions or consultations, in connection with the mailing or contemplated mailing of franked mail. The select committee shall prescribe regulations governing the proper use of the franking privilege under those sections by such persons.

The Select Committee shall investigate complaints of potential or actual violations of Senate franking rules and render and enforce decisions thereon.

*Senate Employee Rights; Review by the Select Committee on Ethics.* The Select Committee on Ethics may review a decision under section 1207 of this title. Review under this section shall be based on the record of the hearing board. The Committee shall adopt and publish in the Congressional Record procedures for request for review under this section. Within the time for a decision under subsection (d) of this section, the Committee may remand a decision no more than one time to the hearing board for the purpose of supplementing the record or for further consideration. If the Committee does not remand under subsection (c) of this section, it shall transmit a written final decision to the Office for entry in the records of the Office. The decision of the hearing board shall then be deemed to be a final decision.

*Confidentiality of Employee Rights/Hearings.* Except as provided in subsection (d) of this section (1213), the hearings, deliberations, and decisions of the hearing board and the Select Committee on Ethics shall be confidential.

*Final Decision of Select Committee on Ethics.* The final decision of the Select Committee on Ethics under section 1208 of this title, shall be made public if the decision is in favor of the complaining Senate employee or if the decision reverses a decision of the hearing board which had been in favor of the employee. The Select Committee on Ethics may decide to release any other decision at its discretion, in the absence of a proceeding under section 1208 of this title, a decision of the hearing board that is favorable to the employee shall be made public.

*Release of records for judicial review.* The records and decisions of hearing boards, and the decisions of the Select Committee on Ethics, may be made public if required for the purpose of judicial review under section 1209 of this title.

*Authority to discipline.* The Select Committee on Ethics shall retain full power, in accordance with its authority under Senate Resolution 338, 88th Congress, as amended, with respect to disciplinary action against a Member, officer, or employee for a violation of Rule XLII.

### **Select Committee on Government Management**

1. [Government contracting including the] renegotiation of Government contracts.
2. [Governments of the] territorial possessions of the United States, including trusteeships.
3. Public buildings and improved grounds of the United States generally, including Federal buildings in the District of Columbia.
4. Archives of the United States.
5. Federal Civil Service.
6. Government information.
7. Intergovernmental relations.

8. Municipal affairs of the District of Columbia, except appropriations therefor.
9. Organization and reorganization of the executive branch of the Government.
10. Postal Service.
11. Status of officers and employees of the United States, including their classification, compensation, and benefits.
12. Constitutional amendments.
13. Federal courts and judges.
14. Government information.
15. Holidays and celebrations.
16. Judicial proceedings, civil and criminal, generally.
17. Local courts in the territories and possessions.
18. Measures relating to claims against the United States.
19. Revision and codification of the statutes of the United States.
20. State and territorial boundary lines.

#### **Joint Committee on Administration**

1. Congressional organization, except for any part of the matter that amends the rules or orders of the House.
2. Apportionment of Representatives.
  - A. Reviews, on a continuing basis, the committee system of the Senate and the Standing Rules and other rules of the Senate related thereto.
  - B. Provides for the awarding of service pins or emblems to Members, officers, and employees of the Congress, and promulgates regulations governing the awarding of such pins or emblems.
  - C. Grants approval of the acceptance, retention, and wearing by a Member, officer, or employee of the Senate of a decoration tendered by a foreign government in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious service.
  - D. Makes a continuing study of the organization and operation of the Congress of the United States and shall recommend improvements in such organization and operation with a view toward strengthening the Congress, simplifying its operations, improving its relationships with other branches of the United States Government, and enabling it better to meet its responsibilities under the Constitution of the United States; and
  - E. Identifies any court proceeding or action which, in the opinion of the Committee, is of vital interest to the Congress as a constitutionally established institution of the Federal Government and call such proceeding or action to the attention of the Senate.

## F. Also is responsible for:

1. Administration of the House and Senate Office Buildings and the Capitol, including the assignment of office space.
2. Congressional organization relative to rules and procedures, and rules and regulations, including floor access and gallery rules.
3. Credentials and qualifications of Members of the Congress, contested elections, and acceptance of incompatible offices.
4. Federal elections generally, including the election of the President, Vice President, and Member of the Congress.
5. Government Printing Office, and the printing and correction of the Congressional Record, as well as those matters provided for under rule XI.
6. Meetings of the Congress and attendance of Members.
7. Payment of money out of the contingent funds or creating a charge upon the same (except that any resolution relating to substantive matter within the jurisdiction of any standing committee shall be first referred to such committee).
8. Presidential succession.
9. Purchase of books and manuscripts and erection of monuments to the memory of individuals.
10. Senate and House Library and statuary, art, and pictures in the Capitol and Office Buildings.
11. Services to the Congress, including the restaurants.
12. United States Capitol, and congressional office buildings, the Library of Congress [except for the Copyright Office and the Copyright Royalty Tribunal], the Smithsonian Institution (and the incorporation of similar institutions), and the Botanic Gardens.



**PARALLEL COMMITTEE STRUCTURE**

## APPROXIMATE PARALLELISM BETWEEN HOUSE AND SENATE

### Underlying Philosophy

1. Pattern the House committee system more on the model of the Senate.
2. Some jurisdiction changes and committee mergers, but not a complete departure from current committee system
3. Workload would be more equal and remaining committees would be more comparable in attractiveness, easing assignment problems.
4. Similar to first recommendations from the 1976 Senate Temporary Select Committee to Study the Senate Committee System.

### HOUSE COMMITTEES

Committee on Agriculture  
 Committee on Appropriations  
 Committee on Armed Services  
 Committee on Banking, Finance and Urban Affairs  
 Committee on the Budget  
 Committee on Education and Labor  
 Committee on Energy and Commerce  
 Committee on Foreign Affairs  
 Committee on Government Operations  
 Committee on House Administration  
 Committee on the Judiciary  
 Committee on Natural Resources  
 Committee on Public Works and Transportation  
 Committee on Rules  
 Committee on Science, Space, and Technology  
 Committee on Standards of Official Conduct  
 Committee on Ways and Means  
 Permanent Select Committee on Intelligence

Joint Economic Committee  
 Joint Committee the Library  
 Joint Committee on Printing  
 Joint Committee on Taxation

## APPROXIMATE PARALLELISM BETWEEN HOUSE AND SENATE

**Committee on Agriculture**

1. Adulteration of seeds, insect pests, and protection of birds and animals in forest reserves.
2. Agriculture generally.
3. Agricultural and industrial chemistry.
4. Agricultural colleges and experiment stations.
5. Agricultural economics and research.
6. Agricultural education extension services.
7. Agricultural production and marketing and stabilization of prices of agricultural products, and commodities (not including distribution outside of the United States).
8. Animal industry and diseases of animals.
9. Crop insurance and soil conservation.
10. Dairy industry.
11. Entomology and plant quarantine.
12. Extension of farm credit and farm security.
13. [Food, production, distribution.]
14. Human nutrition and home economics.
15. Inspection of livestock and meat products.
16. Plant industry, soils, and agricultural engineering.
17. Rural electrification.
18. Rural development.

**Committee on Appropriations**

The committee shall include separate headings for "Rescissions" and "Transfers of Unexpended Balances" in any bill or resolution as reported from the committee under its jurisdiction specified in subparagraph (2) or (3), with all proposed rescissions and proposed transfers listed therein; and shall include a separate section with respect to such rescissions or transfers in the accompanying committee report. In addition to its jurisdiction under the preceding provisions of this paragraph, the committee shall have the fiscal oversight function provided for in clause 2(b)(3) and the budget hearing function provided for in clause 4(a).

1. Appropriation of the revenue for the support of the Government.
2. Rescissions of appropriations contained in appropriations Acts.
3. Transfers of unexpected balances.
4. The amount of new spending authority (as described in the Congressional Budget Act of 1974) which is to be effective for a fiscal year, including bills and resolutions (reported by other committees) which provide new spending authority and are referred to the committee under clause 4(a).

**Committee on Armed Services**

1. Common defense generally.
2. The Department of Defense generally, including the Departments of the Army, Navy, and Air Force generally.
3. Ammunition depots; forts; arsenals; Army, Navy and Air Force reservations and establishments.
4. Conservation, development, and use of naval petroleum and oil shale reserves.
5. Pay, promotion, retirement, and other benefits and privileges of members of the armed forces, including veterans.
6. Scientific research and development in support of the armed services.
7. Selective service.
8. Size and composition of the Army, Navy, and Air Force.
9. Soldiers' and sailors' homes [and civil relief].
10. Strategic and critical materials necessary for the common defense.
11. Military applications of nuclear energy.
12. [Veterans measures generally.]
13. [Merchant Marine generally.]
14. [Merchant Marine officers and seamen.]
15. [United States Coast Guard and Merchant Marine Academies, and state maritime academies.]
16. [Pensions of all wars of the United States.]

**Committee on Banking, Finance and Urban Affairs**

1. Banks and banking, including deposit insurance and Federal monetary policy.
2. Money and credit, including currency and the issuance of notes and redemption thereof; gold and silver, including the coinage thereof; valuation and revaluation of the dollar.
3. Urban development.
4. Public and private housing.
5. Economic stabilization, defense production, renegotiation, and control of the price of commodities, rents, and services.
6. International finance.
7. Financial aid to commerce and industry (other than transportation).
8. International Financial and Monetary organizations.
9. [Insurance.]
10. [Assistance to and protection of small businesses, including financial aid.]
11. [Postal savings banks.]
12. [Securities and exchange.]
13. [Life insurance issued by the Government on account of service in the armed forces.]



**Committee on the Budget**

1. All concurrent resolutions on the budget (as defined in section 3(a)(4) of the Congressional Budget Act of 1974) and other matters required to be referred to the committee under titles III and IV of that Act, and any resolution pursuant to section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.
2. The committee shall have the duty—
  - A. to report the matters required to be reported by it under titles III and IV of the Congressional Budget Act of 1974;
  - B. to make continuing studies of the effect on budget outlays of relevant existing and proposed legislation and to report the results of such studies to the House on a recurring basis;
  - C. to request and evaluate continuing studies of tax expenditures, to devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and to report the results of such studies to the House on a recurring basis; and
  - D. to review, on a continuing basis, the conduct by the Congressional Budget Office of its functions and duties.

**Committee on Education and Labor**

1. Measures relating to education or labor generally.
2. Child labor.
3. Columbia Institution for the Deaf, Dumb, and Blind; Howard University; Freedmen's Hospital.
4. Convict labor and the entry of goods made by convicts into interstate commerce.
5. Labor standards.
6. Labor statistics.
7. Mediation and arbitration of labor disputes.
8. Regulation or prevention of importation of foreign laborers under contract.
9. Food programs for children in schools.
10. United States Employees' Compensation Commission.
11. Vocational rehabilitation.
12. Wages and hours of labor.
13. Work incentive programs.
14. [Science scholarships.]

**Committee on Energy and Commerce**

1. Interstate and foreign commerce generally.
2. National energy policy generally.

3. Measures relating to the exploration, production, storage, supply, marketing, pricing, and regulation of energy resources, including all fossil fuels, solar energy, and other unconventional or renewable energy resources.
4. Measures relating to the conservation of energy resources.
5. Measures relating to the commercial application of energy technology.
6. Measures relating to energy information generally.
7. Measures relating to (A) the generation and marketing of power (except by federally chartered or Federal regional power marketing authorities), (B) the reliability and interstate transmission of, and ratemaking for, all power, and (C) the siting of generation facilities; except the installation of interconnections between Government waterpower projects.
8. Interstate energy compacts.
9. Measures relating to general management of the Department of Energy, and the management and all functions of the Federal Energy Regulatory Commission.
10. Regulation of interstate and foreign communications.
11. Consumer affairs and consumer protection.
12. Travel and tourism.
13. Public health and quarantine.
14. Health and health facilities, except health care supported by payroll deductions.
15. Biomedical research and development.
16. [Adulteration of food and drugs.]
17. [St. Elizabeth's Hospital.]
18. Public health and safety, sanitation, and quarantine
19. [Veterans hospitals, medical care, and treatment of veterans.]

#### Committee on Foreign Affairs

1. Relations of the United States with foreign nations generally.
2. Acquisition of land and buildings for embassies and legations in foreign countries.
3. Establishment of boundary lines between the United States and foreign nations.
4. Foreign loans.
5. International conferences and congresses.
6. Intervention abroad and declarations of war.
7. Measures relating to the diplomatic service.
8. Measures to foster commercial intercourse with foreign nations and to safeguard American business interest abroad.
9. Neutrality.
10. Protection of American citizens abroad and expatriation.
11. The American National Red Cross.
12. United Nations Organizations.
13. Measures relating to international economic policy.
14. Export controls, including nonproliferation of nuclear technology and nuclear hardware.

15. International commodity agreements (other than those involving sugar), including all agreements for cooperation in the export of nuclear technology and nuclear hardware.
16. Trading with the enemy.
17. International education.
18. [Panama Canal and the maintenance and operation of the Panama Canal, including the administration, sanitation, and government of the Canal Zone; and interoceanic canals generally.]
19. [Rules and international arrangements to prevent collisions at sea.]
20. [International fishing agreements.]

#### **Committee on Government Operations**

1. Budget and accounting measures, other than appropriations.
2. The overall economy and efficiency of Government operations and activities, including Federal procurement.
3. Reorganizations in the executive branch of the Government.
4. Intergovernmental relationships between the United States and the States and municipalities, and general revenue sharing.
5. National archives.
6. Measures providing for off-budget treatment of Federal agencies or programs.
7. [Incorporation and organizations of societies.]
8. [Participation of small business enterprises in Federal procurement and Government contracts.]
9. [Census and collection of statistics generally.]
10. [Federal civil service, including intergovernmental personnel.]
11. [Postal service generally, including the railway mail service, and measures relating to ocean mail, pneumatic tube service, and post roads.]
12. [Status of officers and employees of the United States, including their compensation, classification, and retirement.]
13. [Hatch Act.]
14. [Population and demography.]
15. Measures relating to the disposition of useless executive papers.

#### **Committee on House Administration**

1. Appropriations from the contingent fund.
2. Auditing and settling of all accounts which may be charged to the contingent fund.
3. Employment of persons by the House, including clerks for Members and committees, and reporters of debates.
4. Except as provided in clause 1(p)(4), matters relating to the Library of Congress, and the House Library; statuary and pictures; acceptance or purchase of works of art for the Capitol; the Botanic Gardens; management of the Library of Congress; purchase of books and manuscripts; erection of monuments to the memory of individuals.

5. Except as provided in clause 1(p)(4), matters relating to the Smithsonian Institution and the incorporation of similar institutions.
6. Expenditure of contingent funds of the House.
7. Matters relating to printing and correction of the Congressional Record.
8. Measures relating to accounts of the House generally.
9. Measures relating to assignment of office space for Members and committees.
10. Measures relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; credentials and qualifications; and Federal elections generally.
11. Measures relating to services to the House, including the House Restaurant, parking facilities and administration of the House Office Buildings and of the House wing of the Capitol.
12. Measures relating to the travel of Members of the House.
13. Measures relating to the raising, reporting and use of campaign contributions for candidates for office of Representative in the House of Representatives and of Resident Commissioner to the United States from Puerto Rico.
14. Measures relating to the compensation, retirement and other benefits of the Members, officers, and employees of the Congress.

#### **Committee on the Judiciary**

1. Judicial proceedings, civil and criminal generally.
2. Apportionment of Representatives.
3. Bankruptcy, mutiny, espionage, and counterfeiting.
4. Civil liberties.
5. Constitutional amendments.
6. Federal courts and judges.
7. Immigration and naturalization.
8. Interstate compacts generally.
9. Local courts in the Territories and possessions.
10. Measures relating to claims against the United States.
11. Meetings of Congress, attendance of Members and their acceptance of incompatible offices.
12. National penitentiaries.
13. Patent Office.
14. Patents, copyrights, and trademarks.
15. Presidential succession.
16. Protection of trade and commerce against unlawful restraints and monopolies.
17. Revision and codification of the Statutes of the United States.
18. State and territorial boundary lines.
19. Communist and other subversive activities affecting the internal security of the United States.
20. [Executors, administrators, wills, and divorce.]
21. [Municipal code and amendments to criminal and corporation laws.]
22. [Municipal and juvenile courts.]



23. [Regulation of sale of intoxicating liquors, and narcotics abuse, and control.]
24. [Holidays and celebrations.]
25. [Registering and licensing of vessels and small boats.]

#### Committee on Natural Resources

1. Forest reserves and national parks.
2. Forfeiture of land grants and alien ownership, including alien ownership of mineral lands.
3. Geological Survey.
4. Interstate compacts relating to apportionment of waters for irrigation purposes.
5. Irrigation and reclamation, including water supply for reclamation projects, and easements of public lands for irrigation projects, and acquisition of private lands when necessary to complete irrigation projects.
6. Measures relating to the care and management of Indians, including the care and allotment of Indian lands and general and special measures relating to claims which are paid out of Indian funds.
7. Measures relating generally to the insular possessions of the United States, except those affecting the revenue and appropriations.
8. Military parks and battlefields; national cemeteries administered by the Secretary of the Interior, and parks within the District of Columbia.
9. Mineral land laws and claims and entries thereunder.
10. Mineral resources of the public lands.
11. Mining interests generally.
12. Mining schools and experimental stations.
13. Petroleum conservation on the public lands and conservation of the radium supply in the United States.
14. Preservation of prehistoric ruins and objects of interests on the public domain.
15. Public lands, generally, including entry, easements, and grazing thereon.
16. Relations of the United States with the Indians and the Indian tribes.
17. Regulation of the domestic nuclear energy industry, including regulation of research and development reactors and nuclear regulatory research.
18. [Welfare of miners.]
19. [Inland waterways.]
20. [Oceanography and Marine Affairs, including coastal zone management.]
21. [Fisheries and wildlife, including research, restoration, refuges, and conservation.]
22. [Oil and other pollution of manageable waters.]

**Committee on Public Works and Transportation**

1. Flood control and improvement of rivers and harbors.
2. Measures relating to the Capitol Building and the Senate and House Office Buildings.
3. Measures relating to the construction or maintenance of roads and post roads, other than appropriations therefor; but it shall not be in order for any bill providing general legislation in relation to roads to contain any provision for any specific road, nor for any bill in relation to a specific road to embrace a provision in relation to any other specific road.
4. Measures relating to the construction or reconstruction, maintenance, and care of the buildings and grounds of the Botanic Gardens, the Library of Congress, and the Smithsonian Institution.
5. Measures relating to the purchase of sites and construction of post offices, customhouses, Federal courthouses, and Government buildings within the District of Columbia.
6. Public buildings and occupied or improved grounds of the United States generally.
7. Public works for the benefit of navigation, including bridges and dams (other than international bridges and dams).
8. Water power.
9. Transportation, including civil aviation.
10. Roads and safety thereof.
11. Water transportation subject to the jurisdiction of the Interstate Commerce Commission.
12. Related transportation regulatory agencies.
13. [Railroads, including railroad labor, railroad retirement and unemployment, except revenue measures related thereto.]
14. [Civil aviation research and development.]
15. [Measures relating to the regulation of common carriers by water (except matters subject to the jurisdiction of the Interstate Commerce Commission) and to the inspection of merchant marine vessels, lights and signals, lifesaving equipment, and fire protection on such vessels.]
16. [Navigation and the laws relating thereto, including pilotage.]

**Committee on Rules**

1. The rules and joint rules (other than rules or joint rules relating to the Code of Official Conduct), and order of business of the House.
2. Emergency waivers (under the Congressional Budget Act of 1974) of the required reporting date for bills and resolutions authorizing new budget authority.
3. Recesses and final adjournment of Congress.

**Committee on Science, Space, and Technology**

1. Astronautical research and development, including resources, personnel, equipment, and facilities.
2. Bureau of Standards, standardization of weights and measures and the metric system.
3. National Aeronautics and Space Administration.
4. National Aeronautics and Space Council.
5. National Science Foundation.
6. Outer space, including exploration and control thereof.
7. Scientific research, development, and demonstration, and projects therefor.
8. Environmental research and development.
9. All energy research, development, and demonstration, and projects therefore, and all federally owned or operated nonmilitary energy laboratories.
10. National Weather Service.

**Committee on Standards of Official Conduct**

1. Measures relating to the Code of Official Conduct.

In addition to its legislative jurisdiction under the provisions of this paragraph (and its general oversight function under clause 2(b)(1), the committee shall have the functions with respect to recommendations, studies, investigations, and reports which are provided for in clause 4(e), and the functions designated in title I of the Ethics in Government Act of 1978. Also, has duties related to the House Rules on the Code of Conduct (Rule XLIII) and on Financial Disclosure (Rule XLIV).

**Committee on Ways and Means**

1. Customs, collection districts, and ports of entry and delivery.
2. Reciprocal trade agreements.
3. Revenue measures generally.
4. Revenue measures relating to the insular possessions.
5. The bond debt of the United States (subject to the last sentence of clause 4(g) of this rule).
6. The deposit of public money.
7. Transportation of dutiable goods.
8. Tax exempt foundations and charitable trusts.
9. National social security, except (A) health care and facilities programs that are supported from general revenues as opposed to payroll deductions and (B) work incentive programs.
10. [Taxes and tax sales.]

**HOUSE SELECT COMMITTEES****Permanent Select Committee on Intelligence**

There shall be referred to the select committee all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

1. The Central Intelligence Agency and Director of Central Intelligence.
2. Intelligence and intelligence-related activities of all other departments and agencies of the Government, including, but not limited to the intelligence and intelligence related activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of State; the Department of Justice; and the Department of the Treasury.
3. The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence or intelligence-related activities.
4. Authorizations for appropriations, both direct and indirect, for the following:
  - A. The Central Intelligence Agency and Director of Central Intelligence.
  - B. The Defense Intelligence Agency.
  - C. The National Security Agency.
  - D. The intelligence and intelligence-related activities of other agencies and subdivisions of the Department of Defense.
  - E. The intelligence and intelligence-related activities of the Department of State.
  - F. The intelligence and intelligence-related activities of the Federal Bureau of Investigations, including all activities of the Intelligence Division.
  - G. Any department, agency, or subdivision which is the successor to any agency named in subdivision (A), (B), or (C); and the activities of any department, agency, or subdivision which is the successor to any department, agency, bureau, or subdivision named in subdivision (D), (E), or (F), to the extent that the activities of such successor department, agency, or subdivision are activities described in subdivision (D), (E), or (F).



## JOINT COMMITTEES

### Joint Economic Committee

- A. The Committee conducts a continuing study of matters relating to the Economic Report made by the President and studies means of promoting the national policy on employment as outlined in the Employment Act of 1946 (15 U.S.C. 102). The committee is required to file, not later than March 1 of each year, a report with the Senate and the House containing its findings and recommendations on each of the main recommendations made by the President in the Economic Report. It is authorized to hold hearings and make other reports to the Congress and to issue a monthly publication on economic conditions (15 U.S.C. 1024-1025). The Full Employment and Balanced Growth Act of 1978 (Public Law 95-523, sec. 302) requires the Joint Committee to review and analyze the short-term and medium-term goals set forth in the Economic Report and to hold hearings on the Report to hear testimony from Members of Congress and other groups. Within 30 days after receipt of the Report by the Congress, standing committees with legislative jurisdiction and Joint Committees may submit reports to the joint committee with views and recommendations on matters within their jurisdiction. On or before each March 15, a majority of the members of the joint committee are required to submit a report to the Senate and House Budget Committees, including findings, recommendations and appropriate analyses with respect to each of the short-term and medium-term goals set forth in the Economic Report.
- B. It shall be the function of the joint committee—
  1. to make a continuing study of matter relating to the Economic Report;
  2. to study means of coordinating programs in order to further the policy of this chapter; and
  3. as a guide to the several committee of the Congress dealing with legislation relating to the Economic Report, not later than March 1 of each year (beginning with the year 1947) to file a report with the Senate and the House of Representatives containing its findings and recommendations with respect to each of the main recommendations made by the President in the Economic Report, and from time to time to make such other reports and recommendations to the Senate and House of Representatives as it deems advisable.
  4. The Joint Economic Committee is authorized to issue a monthly publication entitled "Economic Indicators".

### Joint Committee on the Library

The Committee considers proposals concerning the management and expansion of the Library of Congress, the development and maintenance of the Botanic Gardens, the receipt of gifts for the benefit of the Library, and certain

matters relating to placing of statues and other works of art in the Capitol (2 U.S.C. 132b).

#### **Joint Committee on Printing**

1. Oversees the Government Printing Office and the laws and rules governing the operations of GPO.
2. The Committee adopts and employees measure necessary to remedy inefficiencies or waste in the public printing, binding, and distribution of Government publications. It has control of the arrangement and style of the Congressional Record (44 U.S.C. 901-910). The Joint Committee on Printing is authorized and directed to provide for printing in the Daily Record the legislative program for the day, together with a list of congressional committee meetings and hearings, and the place of meeting and subject matter, and to cause a brief resume of congressional activities for the previous day to be incorporated in the Record, together with an index of its contents. Such data shall be prepared under the supervision of the Secretary of the Senate and the Clerk of the House of Representatives, respectively.

#### **Joint Committee on Taxation**

1. The Joint Committee investigates the operation and effects of the Federal system of internal revenue taxation.
2. May obtain and inspect income returns.
3. It is the duty of the Joint Committee—
  - A. To investigate—
    1. the operation and effects of the Federal system of internal revenue taxes;
    2. the administration of such taxes by the Internal Revenue Service or any executive department, establishment, or agency charged with their administration; and
    3. other aspects of our system of taxes as it may deem necessary.
    4. measures and methods for the simplification of taxes, particularly the income tax; and
  - B. To publish, from time to time, for public examination and analysis, proposed measures and methods for the simplification of such taxes.
  - C. To report, from time to time, to the Committee on Finance and the Committee on Ways and Means, and, in its discretion, to the Senate or the House of Representatives, or both, the results of its investigations, together with such recommendations as it may deem advisable.

- D. For duties of the Joint Committee relating to refunds of income and estate taxes, see section 6405. Aug. 16, 1954, ch. 736, 68A Stat. 927.

**HOUSE PARALLEL TO SENATE****Underlying Philosophy**

1. Matched committee systems allow for similar referral procedures and can expedite joint hearings at earlier stages and conference action at end of process.
2. Would enlarge the policy range of remaining committees and may make committees more attractive for Members.
3. Size of House may require stringent new assignment limits, possibly to one committee per Member, to keep committees to manageable size.
4. If remaining House committees increase in size, there may be strong demands for additional subcommittees to manage workload.

**HOUSE AND SENATE COMMITTEES**

Committee on Agriculture  
Committee on Appropriations  
Committee on Armed Services  
Committee on Banking and Currency  
Committee on Budget  
Committee on Commerce  
Committee on Energy and Natural Resources  
Committee on Environment and Public Works  
Committee on Finance  
Committee on Foreign Relations  
Committee on Governmental Affairs  
Committee on Judiciary  
Committee on Labor and Human Resources  
Committee on Rules and Administration  
Committee on Small Business  
Committee on Veterans's Affairs



**HOUSE PARALLEL TO SENATE****Committee on Agriculture**

1. Adulteration of seeds, insect pests, and protection of birds and animals in forest reserves.
2. Agriculture generally.
3. Agricultural and industrial chemistry.
4. Agricultural colleges and experiment stations.
5. Agricultural economics and research.
6. Agricultural education extension services.
7. Agricultural production and marketing and stabilization of prices of agricultural products, and commodities (not including distribution outside of the United States).
8. Animal industry and diseases of animals.
9. Crop insurance and soil conservation.
10. Dairy industry.
11. Entomology and plant quarantine.
12. Extension of farm credit and farm security.
13. Forestry in general, and forest reserves other than those created from the public domain.
14. Human nutrition and home economics.
15. Inspection of livestock and meat products.
16. Plant industry, soils, and agricultural engineering.
17. Rural electrification.
18. Rural development.

**Committee on Appropriations**

The committee shall include separate headings for "Rescissions" and "Transfers of Unexpended Balances" in any bill or resolution as reported from the committee under its jurisdiction specified in subparagraph (2) or (3), with all proposed rescissions and proposed transfers listed therein; and shall include a separate section with respect to such rescissions or transfers in the accompanying committee report. In addition to its jurisdiction under the preceding provisions of this paragraph, the committee shall have the fiscal oversight function provided for in clause 2(b)(3) and the budget hearing function provided for in clause 4(a).

1. Appropriation of the revenue for the support of the Government.
2. Rescissions of appropriations contained in appropriations Acts.
3. Transfers of unexpected balances.
4. The amount of new spending authority (as described in the Congressional Budget Act of 1974) which is to be effective for a fiscal year, including bills and resolutions (reported by other committees) which provide new spending authority and are referred to the committee under clause 4(a).

**Committee on Armed Services**

1. Common defense generally.
2. The Department of Defense generally, including the Departments of the Army, Navy, and Air Force generally.
3. Ammunition depots; forts; arsenals; Army, Navy and Air Force reservations and establishments.
4. Conservation, development, and use of naval petroleum and oil shale reserves.
5. Pay, promotion, retirement, and other benefits and privileges of members of the armed forces.
6. Scientific research and development in support of the armed services.
7. Selective service.
8. Size and composition of the Army, Navy, and Air Force.
9. Soldiers' and sailors' homes.
10. Strategic and critical materials necessary for the common defense.
11. Military applications of nuclear energy.

**Committee on Banking and Currency**

1. Banks and banking, including deposit insurance and Federal monetary policy.
2. Money and credit, including currency and the issuance of notes and redemption thereof; gold and silver, including the coinage thereof; valuation and revaluation of the dollar.
3. Urban development.
4. Public and private housing.
5. Economic stabilization, defense production, renegotiation, and control of the price of commodities, rents, and services.
6. International finance.
7. Financial aid to commerce and industry (other than transportation).
8. International Financial and Monetary organizations.
9. Securities and Exchanges.

**Committee on Budget**

1. All concurrent resolutions on the budget (as defined in section 3(a)(4) of the Congressional Budget Act of 1974) and other matters required to be referred to the committee under titles III and IV of that Act, and any resolution pursuant to section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.
2. The committee shall have the duty—
  - A. to report the matters required to be reported by it under titles III and IV of the Congressional Budget Act of 1974;

- B. to make continuing studies of the effect on budget outlays of relevant existing and proposed legislation and to report the results of such studies to the House on a recurring basis;
- C. to request and evaluate continuing studies of tax expenditures, to devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and to report the results of such studies to the House on a recurring basis; and
- D. to review, on a continuing basis, the conduct by the Congressional Budget Office of its functions and duties.  
Committee on Banking & Currency

### Committee on Commerce

- 1. Interstate and foreign commerce generally.
- 2. Inland waterways.
- 3. Railroads, including railroad labor, railroad retirement and unemployment, except revenue measures related thereto.
- 4. Regulation of interstate and foreign communications.
- 5. Consumer affairs and consumer protection.
- 6. Travel and tourism.
- 7. Biomedical research and development.
- 8. Merchant marine generally.
- 9. Oceanography and Marine Affairs, including coastal zone management.
- 10. Coast Guard, including lifesaving service, lighthouses, lightships, and ocean derelicts.
- 11. Measures relating to the regulation of common carriers by water (except matters subject to the jurisdiction of the Interstate Commerce Commission) and to the inspection of merchant marine vessels, lights and signals, lifesaving equipment, and fire protection on such vessels.
- 12. Merchant marine officers and seamen.
- 13. Navigation and the laws relating thereto, including pilotage.
- 14. Panama Canal and the maintenance and operation of the Panama Canal, including the administration, sanitation, and government of the Canal Zone; and interoceanic canals generally.
- 15. Rules and international arrangements to prevent collisions at sea.
- 16. United States Coast Guard and Merchant Marine Academies, and State Maritime Academies.
- 17. Astronautical research and development, including resources, personnel, equipment, and facilities.
- 18. Bureau of Standards, standardization of weights and measures and the metric system.
- 19. National Aeronautics and Space Administration.
- 20. National Aeronautics and Space Council.
- 21. National Science Foundation.
- 22. Outer space, including exploration and control thereof.
- 23. Science scholarships.

24. Scientific research, development, and demonstration, and projects therefor.
25. Civil aviation research and development.
26. Environmental research and development.
27. All energy research, development, and demonstration, and projects therefor, and all federally owned or operated nonmilitary energy laboratories.
28. National Weather Service.
29. Transportation, including civil aviation except railroads, railroad labor and pensions.
30. Roads and safety thereof.
31. Water transportation subject to the jurisdiction of the Interstate Commerce Commission.
32. Related transportation regulatory agencies, except (A) the Interstate Commerce Commission as it relates to railroads; (B) Federal Railroad Administration; and (C) Amtrak.

#### **Committee on Energy and Natural Resources**

1. National energy policy generally.
2. Measures relating to the exploration, production, storage, supply, marketing, pricing, and regulation of energy resources, including all fossil fuels, solar energy, and other unconventional or renewable energy resources.
3. Measures relating to the conservation of energy resources.
4. Measures relating to the commercial application of energy technology.
5. Measures relating to energy information generally.
6. Measures relating to (A) the generation and marketing of power (except by federally chartered or Federal regional power marketing authorities), (B) the reliability and interstate transmission of, and ratemaking for, all power, and (C) the siting of generation facilities; except the installation of interconnections between Government waterpower projects.
7. Interstate energy compacts.
8. Measures relating to general management of the Department of Energy, and the management and all functions of the Federal Energy Regulatory Commission.
9. Measures relating to the care and management of Indians, including the care and allotment of Indian lands and general and special measures relating to claims which are paid out of Indian funds.
10. Measures relating generally to the insular possessions of the United States, except those affecting the revenue and appropriations.
11. Military parks and battlefields; national cemeteries administered by the Secretary of the Interior, and parks within the District of Columbia.
12. Mineral land laws and claims and entries thereunder.
13. Mineral resources of the public lands.
14. Mining interests generally.
15. Mining schools and experimental stations.



16. Petroleum conservation on the public lands and conservation of the radium supply in the United States.
17. Preservation of prehistoric ruins and objects of interests on the public domain.
18. Public lands, generally, including entry, easements, and grazing thereon.
19. Relations of the United States with the Indians
20. Water power. and the Indian tribes.

#### **Committee on Environment and Public Works**

1. Fisheries and wildlife, including research, restoration, refuges, and conservation.
2. Flood control and improvement of rivers and harbors.
3. Measures relating to the Capitol Building and the Senate and House Office Buildings.
4. Measures relating to the construction or maintenance of roads and post roads.
5. Measures relating to the construction or reconstruction, maintenance, and care of the buildings and grounds of the Botanic Gardens, the Library of Congress, and the Smithsonian Institution.
6. Measures relating to the purchase of sites and construction of post offices, customhouses, Federal courthouses, and Government buildings within the District of Columbia.
7. Oil and other pollution of navigable waters.
8. Public buildings and occupied or improved grounds of the United States generally.
9. Public works for the benefit of navigation, including bridges and dams (other than international bridges and dams).

#### **Committee on Finance**

1. Customs, collection districts, and ports of entry and delivery.
2. Reciprocal trade agreements.
3. Revenue measures generally.
4. Revenue measures relating to the insular possessions.
5. The bond debt of the United States (subject to the last sentence of clause 4(g) of this rule).
6. The deposit of public money.
7. Transportation of dutiable goods.
8. Tax exempt foundations and charitable trusts.
9. National social security, except (A) health care and facilities programs that are supported from general revenues as opposed to payroll deductions and (B) work incentive programs.

**Committee on Foreign Relations**

1. Relations of the United States with foreign nations generally.
2. Acquisition of land and buildings for embassies and legations in foreign countries.
3. Establishment of boundary lines between the United States and foreign nations.
4. Foreign loans.
5. International conferences and congresses.
6. Intervention abroad and declarations of war.
7. Measures relating to the diplomatic service and the Department of State.
8. Measures to foster commercial intercourse with foreign nations and to safeguard American business interest abroad.
9. Neutrality.
10. Protection of American citizens abroad and expatriation.
11. The American National Red Cross.
12. United Nations Organizations.
13. Measures relating to international economic policy.
14. Export controls, including nonproliferation of nuclear technology and nuclear hardware.
15. International commodity agreements (other than those involving sugar), including all agreements for cooperation in the export of nuclear technology and nuclear hardware.
16. Trading with the enemy.
17. International education.
12. International fishing agreements.

**Committee on Governmental Affairs**

1. All measures relating to the municipal affairs of the District of Columbia in general, other than appropriations therefor, including—
2. Adulteration of foods and drugs.
3. Incorporation and organization of societies.
4. Insurance, executors, administrators, wills, and divorce.
5. Municipal code and amendments to the criminal and corporation laws.
6. Municipal and juvenile courts.
7. Public health and safety, sanitation, and quarantine regulations.
8. Regulation of sale of intoxicating liquors.
9. Taxes and tax sales.
10. Saint Elizabeths hospital.
11. Budget and accounting measures, other than appropriations.
12. The overall economy and efficiency of Government operations and activities, including Federal procurement.
13. Reorganizations in the executive branch of the Government.
14. Intergovernmental relationships between the United States and the States and municipalities, and general revenue sharing.
15. National archives.

16. Measures providing for off-budget treatment of Federal agencies or programs.

#### **Committee on Judiciary**

1. Judicial proceedings, civil and criminal generally.
2. Apportionment of Representatives.
3. Bankruptcy, mutiny, espionage, and counterfeiting.
4. Civil liberties.
5. Constitutional amendments.
6. Federal courts and judges.
7. Immigration and naturalization.
8. Interstate compacts generally.
9. Local courts in the Territories and possessions.
10. Measures relating to claims against the United States.
11. Meetings of Congress, attendance of Members and their acceptance of incompatible offices.
12. National penitentiaries.
13. Patent Office.
14. Patents, copyrights, and trademarks.
15. Presidential succession.
16. Protection of trade and commerce against unlawful restraints and monopolies.
17. Revision and codification of the Statutes of the United States.
18. State and territorial boundary lines.
19. Communist and other subversive activities affecting the internal security of the United States.

#### **Committee on Labor and Human Resources**

1. Public health and quarantine.
2. Health and health facilities, except health care supported by payroll deductions.
3. Measures relating to education or labor generally.
4. Child labor.
5. Columbia Institution for the Deaf, Dumb, and Blind; Howard University; Freedmen's Hospital.
6. Convict labor and the entry of goods made by convicts into interstate commerce.
7. Labor standards.
8. Labor statistics.
9. Mediation and arbitration of labor disputes.
10. Regulation or prevention of importation of foreign laborers under contract.
11. Food programs for children in schools.
12. United States Employees' Compensation Commission.
13. Vocational rehabilitation.
14. Wages and hours of labor.

15. Welfare of miners.
16. Work incentive programs.

#### **Committee on Rules and Administration**

1. Appropriations from the contingent fund.
2. Auditing and settling of all accounts which may be charged to the contingent fund.
3. Employment of persons by the Congress, including clerks for Members and committees, and reporters of debates.
4. Matters relating to the Library of Congress, and the House and Senate Library; statuary and pictures; acceptance or purchase of works of art for the Capitol; the Botanic Gardens; management of the Library of Congress; purchase of books and manuscripts; erection of monuments to the memory of individuals.
5. Matters relating to the Smithsonian Institution and the incorporation of similar institutions.
6. Expenditure of contingent funds.
7. Matters relating to printing and correction of the Congressional Record.
8. Measures relating to accounts of the House and Senate generally.
9. Measures relating to assignment of office space for Members and committees.
10. Measures relating to the disposition of useless executive papers.
11. Measures relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections;
12. The rules and joint rules (other than rules or joint rules relating to the Code of Official Conduct), and order of business of the House.
13. Emergency waivers (under the Congressional Budget Act of 1974) of the required reporting date for bills and resolutions authorizing new budget authority.
14. Recesses and final adjournment of Congress.

#### **Committee on Small Business**

1. Assistance to and protection of small business, including financial aid.
2. Participation of small-business enterprises in Federal procurement and Government contracts.

#### **Committee on Veterans' Affairs**

1. Veterans' measures generally.
2. Cemeteries of the United States in which veterans of any war or conflict are or may be buried, whether in the United States or abroad, except cemeteries administered by the Secretary of the Interior.
3. Compensation, vocational rehabilitation, and education of veterans.
4. Life insurance issued by the Government on account of service in the Armed Service.
5. Pensions of all the wars of the United States, general and special.
6. Readjustment of servicemen to civil life.



7. Soldiers' and sailors' civil relief.
8. Veterans' hospitals, medical care, and treatment of veterans.

## PARALLEL WITH APPROPRIATIONS SUBCOMMITTEES

### Underlying Philosophy

1. Decreases number of House and Senate committees to thirteen each (or fourteen, if a separate Appropriations Committee is maintained).
2. Assures precisely parallel House and Senate structures.
3. In House, assignments likely to be limited to one per Member to keep committees at manageable size; subcommittees might be limited accordingly.
4. Organizing principle is a familiar one to Members, and reflects executive branch structure in policymaking decisions.
5. Institutionalizes current Appropriations Committee structure. This assumes that the informal evolution of appropriations bills is a correct model for the entire committee system.
6. Workload among committees may not be equal, or equally attractive to Members.
7. Retains option for separate committees on appropriations and budget.

### HOUSE AND SENATE COMMITTEES

Committee on Agriculture, Rural Development, FDA, Related Agencies

Committee on Commerce, Justice, State, Judiciary, Related Agencies

Committee on Defense

Committee on District of Columbia

Committee on Energy and Water Development

Committee on Foreign Operations, Export Financing, Related Programs

Committee on Interior and Related Agencies

Committee on Labor, Health and Human Services, Education, Related Agencies

Committee on Legislative Affairs

Committee on Military Construction

Committee on Transportation and Related Agencies

Committee on Treasury, Postal Service, General Government

Committee on VA, HUD, Independent Agencies

**PARALLEL WITH APPROPRIATIONS SUBCOMMITTEES****Committee on Agriculture, Rural Development, FDA, Related Agencies**

1. Department of Agriculture, except Forest Service.
2. Farm Credit Administration.
3. Farm Credit System Assistance Board.
4. Farm Credit System Financial Assistance Corporation.
5. Commodity Futures Trading Commission.
6. Food and Drug Administration.

**Committee on Commerce, Justice, State, Judiciary, Related Agencies**

1. Department of Commerce.
2. Department of Justice.
3. Department of State, except Migration and Refugee Assistance.
4. Judiciary.
5. Department of Transportation, Maritime Administration.
6. Arms Control and Disarmament Agency.
7. Board for International Broadcasting.
8. Commission on Agricultural Workers.
9. Christopher Columbus Quincentenary Jubilee Commission.
10. Commission for the Preservation of America's Heritage Abroad.
11. Commission on the Bicentennial of the Constitution.
12. Competitiveness Policy Council.
13. State Justice Institute.
14. Commission on Civil Rights.
15. Commission on Security and Cooperation in Europe.
16. Equal Employment Opportunity Commission.
17. Martin Luther King Federal Holiday Commission.
18. Federal Communications Commission.
19. Federal Maritime Commission.
20. Federal Trade Commission.
21. International Trade Commission.
22. Japan-United States Friendship Commission.
23. Legal Services Corporation.
24. Marine Mammal Commission.
25. U.S. Trade Representative.
26. Securities and Exchange Commission.
27. Small Business Administration.
28. U.S. Information Agency.

**Committee on Defense**

1. Department of Defense, Military, Except Military Construction.
2. Central Intelligence Agency.
3. Intelligence Community Staff.

**Committee on District of Columbia**

1. Municipal affairs of the District of Columbia.

**Committee on Energy and Water Development**

1. Department of energy (except Economic Regulatory Administration; Energy Information Administration; Strategic Petroleum Reserve; Energy Preparedness; Naval Petroleum and Oil Shale Reserves; Fossil Energy Research and Development; Clean Coal Technology; Energy Conservation; Alternative Fuels Production.
2. Department of Defense, Civil.
3. Department of Army, Corps of Engineers, Civil.
4. Department of Interior, Bureau of Reclamation.
5. Appalachian Regional Commission.
6. Delaware River Basin Commission.
7. Interstate Commission on Potomac River Basin.
8. Nuclear Regulatory Commission.
9. Defense Nuclear Facilities Safety Board.
10. Nuclear Waste Technical Review Board.
11. Susquehanna River Basin Commission.
12. Tennessee Valley Authority.

**Committee on Foreign Operations, Export Financing, Related Programs**

1. Agency for International Development.
2. African Development Foundation.
3. African Development Fund and Bank.
4. Asian Development Bank.
5. Department of State, Antiterrorism Assistance, International Narcotics Control, Migration and Refugee Assistance.
6. Enterprise for American Initiative.
7. Export-Import Bank.
8. European Bank for Reconstruction and Development.
9. Foreign Military Financing Program.
10. Guarantee Reserve Fund.
11. Inter-American Foundation.
12. Interamerican Development Bank.
13. World Bank.
14. International Development Association.
15. International Development Cooperation Agency.
16. International Finance Corporation.
17. International Fund for Agricultural Development.
18. International Military Education and Training.
19. International Monetary Fund.
20. International Organizations.
21. Military Assistance Program.
22. Multilateral Investment Guarantee Agency.



23. Overseas Private Investment Corporation.
24. Peace Corps.
25. Presidential Contingency Fund.
26. Trade and Development Program.

#### **Committee on Interior and Related Agencies**

1. Department of Interior, Except Bureau of Reclamation.
2. Department of Energy, Economic Regulatory Administration; Energy Information Administration; Strategic Petroleum Reserve; Fossil Energy Research and Development; Energy Conservation; Alternative Fuels Production; Clean Coal Technology.
3. Energy Security Reserve.
4. Commission on Fine Arts.
5. Forest Service.
6. FDR Memorial Commission.
7. Holocaust Memorial Council.
8. Indian Education.
9. Indian Health Services.
10. Institute of American Indian and Alaskan Native Culture and Arts Development.
11. Institute of Museum Services.
12. Advisory Council on Historic Preservation.
13. National Capital Planning Commission.
14. National Foundation for the Arts and Humanities.
15. National Gallery of Art.
16. Navajo and Hopi Indian Relocation Commission.
17. Pennsylvania Avenue Development Corporation.
18. Simon Wiesenthal Center.
19. Smithsonian Institution.
20. Woodrow Wilson International Center for Scholars.
21. Federal Inspector for Alaska Gas Pipeline.

#### **Committee on Labor, Health and Human Services, Education, Related Agencies**

1. Department of Education, except Indian Education Activities and Simon Wiesenthal Center.
2. Department of Health and Human Services, except FDA, Indian Health Services, Office of Consumer Affairs.
3. Department of Labor.
4. Corporation for Public Broadcasting.
5. Federal Mediation and Conciliation Service.
6. Federal Mine Safety and Health Review Commission.
7. National Commission on AIDS.
8. National Commission on Libraries and Information Science.
9. National Labor Relations Board.
10. National Mediation Board.

11. Occupational Safety and Health Review Commission.
12. Railroad Retirement Board.
13. Soldiers' and Airmens' Home.
14. U.S. Naval Home.
15. ACTION.
16. National Council on Disability.
17. Prospective Payment Assessment Commission.
18. U.S. Institute of Peace.
19. Physician's Payment Review Commission.

#### **Committee on Legislative Affairs**

1. House of Representative, Senate, Joint Items.
2. Architect of Capital.
3. Botanical Garden.
4. Congressional Budget Office.
5. Copyright Royalty Tribunal.
6. General Accounting Office.
7. Government Printing Office.
8. John C. Stennis Center.
9. Library of Congress, including Congressional Research Service.
10. National Film Preservation Board.
11. Office of Technology Assessment.
12. U.S. Capitol Preservation Commission.

#### **Committee on Military Construction**

1. Military Construction.
2. Military Family Housing.
3. DOD Base Closure Account.
4. Homeowners Assistance Fund.
5. NATO Infrastructure.

#### **Committee on Transportation and Related Agencies**

1. Department of Transportation, except Maritime Administration.
2. St. Lawrence Seaway.
3. Architectural and Transportation Barriers Compliance Board.
4. Interstate Commerce Commission.
5. National Transportation Safety Board.
6. Panama Canal Commission.
7. Washington Metropolitan Area Transit Authority.

**Committee on Treasury, Postal Service, General Government**

1. Treasury Department.
2. U.S. Postal Service.
3. Executive Office of President, Council of Economic Advisers; National Critical Materials Council; National Security Council; Office of Federal Procurement Policy; Office of Management and Budget; Office of National Drug Control Policy; Administrative Conference of U.S.; Advisory Commission on Intergovernmental Relations; Advisory Committee on Federal Pay; Federal Election Commission; Federal Labor Relations Authority; General Services Administration; Office of Personnel Management; Merit Systems Protection Board; National Archives and Records Administration; Office of Government Ethics.
4. U.S. Tax Court.

**Committee on VA, HUD, Independent Agencies**

1. Department of Veterans Affairs.
2. Department of Housing and Urban Development.
3. American Battle Monuments Commission.
4. Chemical Safety and Hazard Investigations Board.
5. Commission on National and Community Service.
6. Consumer Information Center.
7. Consumer Product Safety Commission.
8. Council on Environmental Quality.
9. Court of Veterans Appeals.
10. Environmental Protection Agency.
11. Federal Emergency Management Agency.
12. Federal Deposit Insurance Fund.
13. Resolution Trust Corporation.
14. Interagency Council on the Homeless.
15. National Credit Union Administration.
16. National Aeronautics and Space Administration.
17. National Institute of Building Sciences.
18. National Science Foundation.
19. National Space Council.
20. Office of Consumer Affairs.
21. Office of Science and Technology Policy.
22. Selective Service System.
23. Neighborhood Reinvestment Corporation.

**PARALLEL WITH EXECUTIVE BRANCH AGENCIES****Underlying Philosophy**

1. Would result in precisely parallel structures in the House and Senate that also contribute to easier working relationships with appropriate executive agency.
2. Reduces number of committees in each chamber.
3. In broad outlines, does not address assignment of responsibilities over independent agencies, government corporations, or other specialized executive units. Does not directly reflect congressional role on judicial branch matters.
4. Retains option to establish separate Appropriations, Budget, and/or tax committees.

**HOUSE AND SENATE COMMITTEES**

Committee on Agriculture  
Committee on Commerce  
Committee on Defense  
Committee on Education  
Committee on Energy  
Committee on Health and Human Services  
Committee on Housing and Urban Development  
Committee on the Interior  
Committee on Justice  
Committee on Labor  
Committee on State  
Committee on Transportation  
Committee on the Treasury  
Committee on Veterans Affairs



**PARALLEL WITH EXECUTIVE BRANCH AGENCIES****Committee on Agriculture**

1. Agriculture Stabilization and Conservation Service
2. Foreign Agricultural Service
3. Farmers Home Administration
4. Federal Crop Insurance Corporation
5. Rural Electrification Administration
6. Food and Nutrition Service
7. Agricultural Cooperation Service
8. Agricultural Marketing Service
9. Animal and Plant Health Inspection Service
10. Federal Grain Inspection Service
11. Food Safety and Inspection Service
12. Packers and Stockyards Administration
13. Forest Service
14. Soil Conservation Service
15. Agricultural Research Service
16. Extension Service
17. National Agricultural Library

**Committee on Commerce**

1. National Oceanic and Atmospheric Administration
2. International Trade Administration
3. Bureau of Export Administration
4. Bureau of the Census
5. Bureau of economic Analysis
6. U.S. Travel and Tourism Administration
7. National Institute of Standards and Technology
8. National Technical Information Service
9. Patent and Trademark Office
10. Minority Business Development Agency
11. Economic Development Administration
12. National Telecommunications and Information Administration

**Committee on Defense**

1. National defense generally.

**Committee on Education**

1. Elementary and Secondary Education
2. Postsecondary education
3. Educational Research and Development

4. Special Education and Rehabilitative Services
5. Vocational and Adult Education
6. Bilingual Education and Minority Language Affairs

**Committee on Energy**

1. Nuclear Safety
2. Fossil Energy
3. Conservation and Renewable Energy
4. Environmental Restoration and Waste Management
5. Civilian Radioactive Waste Management

**Committee on Health and Human Services**

1. Public Health Service
2. Health Care Financing Administration
3. Social Security Administration
4. Family Support Administration

**Committee on Housing and Urban Development**

1. Fair Housing and Equal Opportunity
2. Public and Indian Housing
3. Community Planning and Development
4. National Mortgage Association

**Committee on the Interior**

1. National Park Service
2. Fish and Wildlife Service
3. Bureau of Land Management
4. Surface Mining Reclamation
5. Minerals Management
6. Territorial and International Affairs
7. U.S. Geological Survey
8. Bureau of Mines
9. Bureau of Reclamation

**Committee on Justice**

1. Federal Bureau of Investigation
2. Bureau of Prisons
3. U.S. Marshals Service
4. U.S. Parole Commission
5. Drug Enforcement Administration

6. Immigration and Naturalization Service
7. Criminal Law; Antitrust Law; Tax Law
8. Civil Rights

#### **Committee on Labor**

1. Labor Management Relations
2. Women's Bureau
3. Occupational Safety and Health Administration
4. Employment and Training Administration
5. Mine Safety and Health Administration
6. Pension and Welfare Benefits Administration
7. Veterans Employment and Training Services
8. Employment Standards Administration
9. Bureau of Labor Statistics

#### **Committee on State**

1. Arms Control and Disarmament Agency
2. U.S. Information Agency
3. Agency for International Development

#### **Committee on Transportation**

1. U.S. Coast Guard
2. Federal Aviation Administration
3. Federal Highway Administration
4. Federal Railroad Administration
5. National Highway Traffic Safety Administration
6. Urban Mass Transit Administration
7. St. Lawrence Seaway Development Corporation
8. Maritime Administration

#### **Committee on the Treasury**

1. U.S. Mint
2. Bureau of Engraving and Printing
3. Bureau of Public Debt
4. Bureau of Alcohol, Tobacco and Firearms
5. U.S. Customs Service
6. U.S. Secret Service
7. Federal Law Enforcement Training Center
8. Internal Revenue Service
9. Office of Thrift Supervision

#### **Committee on Veterans Affairs**

1. Veterans measures generally.

## SUMMARY OF OPTIONS FOR COMMITTEE SYSTEM REFORMS

### I. JURISDICTIONAL REALIGNMENT, REFERRALS, & COORDINATING MECHANISMS.

#### A. Jurisdictional Realignment.

1. Clarify existing jurisdictional language, without shifting issues.
2. Make jurisdictional changes within the existing system.
3. Establish numerous committees with narrow jurisdictions.
4. Create a moderate number of panels with jurisdictions based on policy functions.
5. Establish few committees with broad jurisdictions.
6. Create jurisdictions based on budget functions.
7. Create parallel committee systems in the House and Senate.
8. Correspond jurisdictions with Executive Branch structure.

#### B. Referrals and Coordinating Mechanisms.

1. Make House referrals based on predominant jurisdiction, and change the presumption to single referral unless the Speaker intervenes.
2. Abolish multiple referrals (joint, sequential, split): secondary panels may file amicus curiae reports or offer privileged floor amendments.
3. Abolish joint referrals, or impose time limits for reporting on all committees involved in multiple referrals.
4. Specify the portion(s) of multiply referred measures each committee may consider.
5. Allow multiply-referred measures to be considered on the floor, if reported by one (or more) committees of referral.
6. Create special subcommittees, or (more frequent) ad hoc committees, for issues that cut across jurisdictions.
7. Implement a procedure to continually review referrals and to encourage cooperation among committees handling related matters.

### II. NUMBERS AND TYPES, SIZES AND RATIOS.

- A. Reduce the numbers and sizes of committees and subcommittees.
- B. Abolish select, special, and joint committees.
- C. Reduce committees, but increase subcommittee numbers or sizes.
- D. Abolish or limit subcommittees: impose a small cap on subcommittees per committee, or recommend which should be abolished.
- E. Allow House committees more flexibility regarding subcommittee structure.
- F. Require chamber (or party conference) approval to establish subcommittees.
- G. Establish committee sizes in House Rules, and caps on total full- and subcommittee slots in both chambers' rules; make waivers subject to floor votes and/or penalty of withholding committee operating funds.
- H. Require the party ratio of committees/subcommittees to reflect the chamber ratio; give certain panels equal numbers of Democrats and Republicans.
- I. Allow control of oversight panels by the party not in the White House.



### III. ASSIGNMENTS.

- A. Enforce existing assignment limitations, and end temporary assignments.
- B. Limit Members' assignments to committees and subcommittees.
- C. Require full chamber action on each individual assignment waiver, or decline to consider as privileged assignment slates that violate set sizes.
- D. Encourage each party's leaders and assignment panel to limit assignments.
- E. Write into chamber rules committee and subcommittee assignment, chairmanship, and ranking membership limitations and selection procedures.
- F. Abolish "major/non-major," "A/B," and similar distinctions among committees.
- G. Increase the leadership role in choosing committee and subcommittee members and leaders, subject to conference/caucus and chamber approval.
- H. Establish term limits for serving on and chairing or ranking on committees.
- I. Encourage leaves of absence from committee service, without loss of seniority on the parent committee.
- J. Prohibit full committee chairs and ranking members from chairing or ranking on a subcommittee of another committee.
- K. Encourage assignment panels to decrease reliance on popularity for choosing committee Members, and seniority for choosing leaders; allow nomination of multiple individuals for chair or ranking member, regardless of seniority.
- L. Allow Members' choice of assignment to committees to dictate which committees are abolished, remove Members from committees for poor attendance, and eliminate committees if poor collective attendance.

### IV. PROCEDURES.

#### A. Subcommittees.

- 1. Ensure uniform enforcement of chamber and committee rules among subunits.
- 2. Prohibit subcommittees from marking up and reporting measures.

#### B. Scheduling Conflicts.

- 1. Group committees and assign each group designated days for sessions.
- 2. Improve, and enhance the use of, the computerized scheduling system.
- 3. Prohibit all committees from meeting when the full chamber is sitting.
- 4. Designate periods early in the session for intensive committee work.
- 5. Designate days for extended committee work, and days for floor action.
- 6. Encourage more joint sessions of panels.
- 7. Require attendance/quorum calls and publish and widely distribute committee and subcommittee attendance and voting records.

**C. Quorums and Proxy Voting.**

1. Require a majority quorum for committee business.
2. Require a recorded quorum call, and ban rolling quorums.
3. Prohibit proxy voting in committees and subcommittees.
4. Allow proxy voting during the amendment process but not for final committee approval.

**D. Hearings and Meetings.**

1. Encourage alternative formats for information gathering and deliberation, including seminars, roundtables, and debates.
2. Adopt a rule requiring Members to question witnesses in order of arrival at hearings.
3. Open all committee sessions, or further limit the circumstances for closing.
4. Close committee sessions unless a committee votes to open.
5. Require public announcement of the time, date, place, subject matter, and participants of committee and subcommittee hearings and meetings, and specify where the announcement is to be made.
6. Encourage C-SPAN or other television coverage of committee meetings, and expand coverage of hearings.

**V. DOCUMENTS.**

- A. Increase the timely availability of all printed materials (including committee reports), and adopt criteria for denying access to materials.
- B. Develop a computerized system for accessing committee documents.
- C. Require more subcommittee documentation when reporting.
- D. Publish transcripts of markup sessions.
- E. Revise requirements for inclusions in committee reports.
- F. Ban staff reports and other documents not approved by committee majority.

**VI. OTHER OPTIONS.**

- A. Create a mechanism to insure that committee procedures are consistent with chamber rules, and give committee staff more procedural training and guidance.
- B. Increase bipartisanship by requiring that the minority is informed and consulted to the maximum degree possible.
- C. Allow a minority of committee Members authority to subpoena.
- D. Create policy committees comprised of committee leaders to periodically review the effectiveness of the committee system.
- E. Make cloture rule applicable to Senate committees.

## OPTIONS FOR COMMITTEE SYSTEM REFORMS

### I. JURISDICTIONAL REALIGNMENT, REFERRALS, & COORDINATING MECHANISMS.

#### A. Jurisdictional Realignment.

##### 1. Clarify existing jurisdictional language, without shifting issues.

**Pro:** Clarifications would eliminate ambiguous and confusing jurisdictional rule language (House Rule X, Senate Rule XXV); replace outdated terms with modern ones; and codify referral practices, precedents, and agreements between committees.

**Con:** Clarifications would not necessarily reflect all current issues in rule language and reduce jurisdictional overlap and competition. Also, neater jurisdictions often will not get at the heart of the problem--different approaches to policy problems between committees.

##### 2. Make jurisdictional changes within the existing system.

**Pro:** Limited changes could eliminate the most glaring policy overlaps and consolidate jurisdiction in a number of key areas. No committees would be eliminated, and it is unlikely that assignments and leadership positions would be significantly affected. Limited changes avoid the difficulties, including political, inherent in radical jurisdictional changes.

**Con:** Limited changes would not consolidate all fragmented and overlapping policy, would not reduce the number of committees, and are unlikely to reduce assignments. Further, limited changes would be difficult to implement, because once realignment is undertaken it is difficult to stop.

##### 3. Establish numerous committees with narrow jurisdictions.

**Pro:** Narrowly focused panels would create committees better balanced in terms of workload and attractiveness, permit more in-depth attention to policy issues, and lessen the chances that issues get lost on the committee agenda due to competing demands.

**Con:** This arrangement would exacerbate concerns (including large workload, scheduling conflicts, and too many assignments) about numerous committees and single interest committees, and possibly increase the number of assignments. Adhering to current assignment limitations by creating smaller panels might make committees, especially Senate ones, too small to be reflective of the chamber. Also, the number of subcommittees could increase, further fragmenting policy making.

**4. Create a moderate number of panels with jurisdictions based on policy functions.**

**Pro:** This reorganization consolidates splintered policy in key areas; reduces jurisdictional overlap, facilitating the development of issues and increasing accountability; could identify and consolidate new policy areas; eliminates committees focused on clientele groups; and creates panels with more balanced workload and attractiveness.

**Con:** There is no assurance that jurisdictional consolidation will improve policy making. Overlap is impossible to eliminate, due to the breadth of contemporary problems, and overlap allows for differing perspectives on issues and healthy competition. Major restructuring would diminish the importance of the institutional memory of committees, and will not significantly cut costs or staff.

**5. Establish few committees with broad jurisdictions.**

**Pro:** This option would create jurisdictions around broad, pressing national problems; create committees more equal in breadth, workload, and attractiveness; streamline policy making; and encourage reductions in assignments. Broader jurisdictions allow for better legislating, because divergent views are represented and reconciled.

**Con:** Too few committees with too much jurisdiction may deny issues the attention they deserve. Especially in the House, there are too many Members for fewer committees, and fewer may inhibit the development of Members' expertise. With excessive consolidation of committees subcommittees may proliferate, further decentralizing policy making.

**6. Create jurisdictions based on budget functions.**

**Pro:** Committees would largely correspond to the budget process, facilitating the most critical congressional activity -- budgetary decision making. Jurisdictions would be more defined in programmatic rather than topical language, minimizing confusion. Also, this option facilitates reductions in panels and in assignments, more equal committee workloads, and more parallel House and Senate committee systems.

**Con:** Budget terminology was not written to be jurisdictional language, and as such is not well reflective of contemporary policy issues. Also, this option might require significant reductions in committee numbers and assignments, and eliminate the flexibility of each chamber to establish its own committee system.



**7. Create parallel committee systems in the House and Senate.**

**Pro:** Parallel systems facilitate inter-chamber coordination at all stages of policy making; might help reduce conference committee sizes which at times are unwieldy; and make it easier for the public to understand and have input into the policy process.

**Con:** The House's larger size, and greater emphasis and reliance on committees, mean a larger number of committees. Fewer, to correspond with the Senate, would make committees so large as to be unworkable. Difficult issues such as which chamber's system to chose, or which new system to develop for both, would still need to be addressed.

**8. Correspond jurisdictions with Executive Branch structure.**

**Pro:** This system could improve inter-branch relations, facilitate comprehensive oversight of the Executive Branch, reduce time consuming and duplicative appearances by witnesses, and enhance public understanding of the policy process.

**Con:** Matching committees with executive entities would be problematic due to the enormous number of executive entities, and could involve a large increase in committees. Also, the Executive Branch is not optimally organized, making executive reorganization a desirable precursor to this arrangement. Finally, the relationships between committees and executive entities might become too "cozy," inhibiting effective oversight.

**B. Referrals and Coordinating Mechanisms.**

**1. Make House referrals based on predominant jurisdiction, and change the presumption to single referral unless the Speaker intervenes.**

**Pro:** This proposal minimizes multiple referrals, simplifies comprehensive policy making without the difficulties of jurisdictional realignment, and enhances the agenda-setting authority of the Speaker.

**Con:** Without jurisdictional realignment, inter-committee conflicts will heighten as committees compete to determine predominant responsibility. Also, the Speaker would be involved in micro agenda setting.

- 2. Abolish multiple referrals (joint, sequential, and split): secondary panels may file amicus curiae reports or offer privileged floor amendments.**

**Pro:** Abolishing multiple referrals would lessen duplication of efforts among panels, the size of conferences, and inter-committee conflicts and clarify responsibility over particular issues. Secondary panels can usefully provide input, while delays and fragmentation from multiple committee consideration of measures are avoided.

**Con:** Multiple referrals are necessary because policy issues can not be easily consolidated, to alleviate conflicts among committees, and to maintain multiple points of access to governmental decision making by outside groups. The mechanism for secondary committees diminishes the value and expertise of different committee perspectives.

- 3. Abolish joint referrals, or impose time limits for reporting on all committees involved in multiple referrals.**

**Pro:** Mandatory time limits, or abolition of joint referrals, are needed to lessen the delays, impediments, and fragmentation traditionally associated with joint referrals.

**Con:** It would be too time consuming for leaders to impose time limits, and such limits may mean insufficient opportunity for committees to formulate proposals. Also, multiply referred legislation would have an advantage over singly referred bills, because they would be guaranteed of availability for floor consideration.

- 4. Specify the portion(s) of multiply referred measures each committee may consider.**

**Pro:** Specifying the responsibility of each committee will avoid unnecessary duplication, increase accountability, and deter committees from encroaching on the prerogatives of other panels.

**Con:** It would be burdensome for party leaders to determine the specific portions of measures within each committee's jurisdiction, and the committees themselves are good and responsible judges as to which provisions they may act on.

- 5. Allow multiply-referred measures to be considered on the floor, if reported by one (or more) committees of referral.**

**Pro:** This proposal would prevent one committee in the chain of referrals from holding up a bill, and could encourage committees to act expeditiously or lose the chance for input.

**Con:** This proposal circumvents the traditional discretion of committees to determine whether, when, and what to report. It may result in the floor consideration of poor legislation due to insufficient scrutiny by all panels of expertise.

**6. Create special subcommittees, leadership task forces, or (more frequent) ad hoc committees, for pressing issues that cut across jurisdictions.**

**Pro:** Drawing Members from different subcommittees or committees with expertise to jointly address matters will improve the speed and quality of legislating. These devices enhance the impact of committee and party leaders on policy, and overcome shortcomings of the committee system without the difficulties of overhauling it. They will always be needed because jurisdictions can not be watertight, and have been used with good results.

**Con:** These devices do little to address the real problems of fractured jurisdictions; may add to problems of proliferating panels and assignments; and create tension between the panels of jurisdiction and 1) the newly created entity, and 2) party and committee leaders.

**7. Implement a procedure to continually review referrals and to encourage cooperation among committees handling related matters.**

**Pro:** Congress will benefit from increased comity and cooperation, and most overlaps can be effectively addressed without resort to formal procedures, such as multiple referrals, which can be problematic. A mechanism for reviewing referrals will assure that they are efficient and fair, and could be used to suggest periodic jurisdictional revisions.

**Con:** Informal cooperation alone is no match for jurisdictional overlaps and fragmentation, thus formal procedures are needed. Constant review is not needed given the expert manner with which the Parliamentarians advise on referrals.

**II. NUMBERS AND TYPES, SIZES AND RATIOS.**

**A. Reduce the numbers and sizes of committees and subcommittees.**

**Pro:** This option could reduce jurisdictional overlap, duplication, and fragmentation; facilitate the coordination of committee and subcommittee work products; limit Members' assignments and scheduling conflicts; and reduce congressional staff size.

**Con:** This option could impede Congress's ability to manage its immense workload, reduce avenues of access to policy making, be viewed as relegating particular issues to a lower congressional priority, reduce availability of staff expertise, alter specialization norm, and lessen opportunities for Members to influence policy and gain leadership experience.

**B. Abolish select, special, and joint committees.**

**Pro:** These panels often duplicate the efforts of standing committees, and cost Congress funds more effectively used by standing committees. Maintaining select/special panels might defy the intent for them to be temporary.

**Con:** Select/special committees examine important issues that fall between the cracks of standing committees, and allow flexibility to deal with emerging circumstances. Joint committees efficiently handle issues pertinent to both chambers, saving time and funds.

**C. Reduce committees, but increase subcommittee numbers or sizes.**

**Pro:** More subcommittees generally makes effective use of smaller working groups while minimizing policy duplication and fragmentation at the full committee full. Larger subcommittees might broaden the range of interests represented at the initial stage of writing legislation.

**Con:** Additional subcommittees would continue decentralized policy making, and larger ones could decrease meaningful deliberation and make it harder to achieve consensus.

**D. Abolish or limit subcommittees: impose a small cap on subcommittees per committee, or recommend which should be abolished.**

**Pro:** Fewer or no subcommittees could centralize and facilitate aggregation of policy making and lessen Members' assignments, scheduling conflicts, and the points at which jurisdictional conflicts arise between committees. Without subcommittees, time would be spent on matters important enough to warrant full committee attention.

**Con:** Any reduction in the division of labor might impede Congress's ability to deal expeditiously with its broad and diverse workload; alter the norm of specialization; reduce avenues of access to policy making; and strengthen the control of full committee leaders. Abolishing subcommittees might overburden full committees.

**E. Allow House committees more flexibility regarding subcommittee structure.**

**Pro:** Allowing House committees to create any number of subcommittees would give each committee the flexibility to deal with its specific workload, jurisdiction, and preferred work style. It may result in a decrease in subcommittees; in the Senate where no restrictions on numbers of subcommittees exist, four non-select committees operate without them.



**Con:** Removing the subcommittee minimum could excessively centralize authority at the full committee level, and removing the maximum could result in subcommittee proliferation, thus increasing assignments, workload, and fractured policy.

**F. Require chamber (or party conference) approval to establish subcommittees.**

**Pro:** Requiring such approval of subcommittee structure could ensure that the chamber creates appropriate subunits with cohesive jurisdictions, and could reduce subcommittee jurisdictional overlap and duplication of activities.

**Con:** Requiring such approval would infringe on the long-standing prerogative of committees to establish subunits based on their own judgment of need.

**G. Establish committee sizes in House Rules, and caps on total full- and subcommittee slots in both chambers' rules; make waivers subject to floor votes and/or penalty of withholding committee operating funds.**

**Pro:** These proposals curb growth in sizes and assignments, which add to scheduling conflicts. Requiring unanimous consent, suspension of the rules, or a joint party leadership motion to amend sizes or caps would focus chamber attention on, and likely deter a number of, waivers. Further, withholding funds of committees violating fixed sizes could be an effective mechanism to force compliance.

**Con:** These proposals would be difficult to implement and enforce; although Senate rules list committee sizes, they are routinely amended. Also, party leaders and committees need the flexibility to adjust sizes to assure majority party control, and in response to the changing nature and importance of issues and to Members' requests for seats.

**H. Require the party ratio of committees/subcommittees to reflect the chamber ratio; give certain panels equal numbers of Democrats and Republicans.**

**Pro:** Current ratios may give the majority party an advantage in policy making. Giving certain panels -- such as oversight and administrative ones -- equal ratios will minimize partisanship in chamber and program management.

**Con:** Requiring party ratios on panels to equal the chamber ratio may deny the majority party working majorities on panels and the ability to organize the chamber as it sees fit. Equal party representation could give the minority too much influence in important management areas.

**I. Allow control of oversight panels by the party not in the White House.**

**Pro:** Control of oversight committees by the party not in control of the White House could improve the quality of congressional oversight of the implementation of programs. Minority control of oversight subcommittees might be an effective check on full committee establishment of programs and program review.

**Con:** Control of committees should be independent of party control of the Executive Branch, and based on party control of Congress. Also, oversight committees controlled by the "out" party could result in increased partisanship and in investigations stemming from political motivations. Minority control of oversight subcommittees would create internal conflict and competing agendas.

**III. ASSIGNMENTS.**

**A. Enforce existing assignment limitations, and end temporary assignments.**

**Pro:** Enforcing current limitations would alleviate many of the current concerns over too many assignments. Needed are not further restrictions; just reject waiver requests.

**Con:** Adhering to the limitations alone would not go far enough. In general, Senators may serve on 12, and Representatives 7, panels, which large numbers arguably are problematic given the many other duties of Members.

**B. Limit Members' assignments to committees and subcommittees.**

**Pro:** Reduced assignments could alleviate concerns that Members are spread too thin, have overburdened and conflicting schedules, rely too heavily on staff and outside groups, and can not participate in many committee sessions.

**Con:** Stricter limitations would not significantly alleviate workload and scheduling concerns due to Members' numerous other demands; could decrease opportunities of Members to formulate policy, head panels, and serve on panels important to voters; and are unnecessary because Members may voluntarily limit service on panels. An enforcement sanction, perhaps withholding a panel's funding, is needed.

**C. Require full chamber action on each individual assignment waiver, or decline to consider as privileged assignment slates that violate set sizes.**

**Pro:** The chambers need to make it harder to violate assignment limitations. Requiring unanimous consent, suspension of the rules, or a joint party leadership motion for a waiver for an individual, or for a committee slate exceeding a fixed size, will focus chamber attention on and deter waivers. Requiring a separate resolution for each individual seeking a waiver, which names the Member, will make the process more open and may provide a further deterrent to waivers.

**Con:** These proposals would be difficult to implement and enforce; the Senate often grants many waivers by unanimous consent. Also, party leaders need the flexibility to grant waivers to assure majority party control, and limiting them may deny leaders a useful tool for rewarding or encouraging the loyalty of party colleagues. Finally, current limitations may be unrealistic, and could be amended to reflect current assignment levels.

**D. Encourage each party's leaders and assignment panel to limit assignments.**

**Pro:** Encouraging party leaders and committee assignment panels to keep down assignment levels and to refuse waivers is critical; by the time assignment slates come to the floor for approval, they are a done deal.

**Con:** Leaders and assignment panels merely reflect Members' interests and needs for assignments; they make assignments in response to requests, not unilaterally. Reduced demand for assignments likely would be needed to alter the norms and behaviors of leaders and assignment panels.

**E. Write into chamber rules committee and subcommittee assignment, chairmanship, and ranking membership limitations and selection procedures.**

**Pro:** This change makes easily available to Members and the public information not explicitly stated in writing or contained in disparate sources, clears up the mystery associated with the assignment process, might encourage more strict adherence to limitations, and might synchronize procedures within a chamber.

**Con:** This change could weaken the traditional independence of parties and committees in choosing committee and subcommittee members and leaders, and might deny them flexibility to establish and adapt procedures to suit their needs.

**F. Abolish "major/non-major," "A/B," and similar distinctions among committees.**

**Pro:** Doing away with these distinctions might simplify and make uniform the committee assignment process; make assignment limitations easier to enforce; change the assumption that "unimportant" committees fall in the last group, or outside the groupings; and facilitate changes to achieve parity of jurisdiction and workload.

**Con:** This change would take away the long-standing practice of allowing each party or the chamber to establish categories for assignment purposes. Categories reflect the reality that panels are not equal in terms of attractiveness for assignment purposes.

**G. Increase the leadership role in choosing committee and subcommittee members and leaders, subject to conference/caucus and chamber approval.**

**Pro:** This change might improve the responsiveness of committees and subcommittees to leadership objectives, and allow leaders to exert more influence on policy directions and activities of committees. Leaders also would increase ability to use assignments as rewards for Members, and could withhold choosing unsupportive Members. Requiring full conference approval of subcommittee leaders might enhance support for party objectives.

**Con:** There is no guarantee that Members owing their committee appointments to leaders will necessarily act consistently with leadership aims. An increased leadership role would reduce the autonomy of the committee assignment panels, might reduce the influence of their members, and would lessen the traditional autonomy of committees in choosing subcommittee members and leaders.

**H. Establish term limits for serving on and chairing or ranking on committees.**

**Pro:** Term limits might make committees more reflective of the chambers, more fully expose committees to Members with fresh perspectives and ideas, broaden Members' knowledge base through exposure to more committees and issues, improve the quality of oversight, and encourage weighing more heavily criteria such as leadership ability (rather than seniority) in choosing committee leaders.

**Con:** Term limits might diminish Member specialization and expertise within each committee, decrease the institutional memory of committees, increase Members' reliance on staff, lead to dramatic shifts in policy directions, create problems for agency and interest group staff who depend on regularized contacts with Congress, result in Members serving on committees of little benefit to constituents, and be very complicated to implement.



**I. Encourage leaves of absence from committee service, without loss of seniority on the parent committee.**

**Pro:** This option would have many of the benefits, but not the drawbacks, of mandatory term limits. For example, it could more fully expose committees to Members with fresh perspectives and ideas and broaden Members' knowledge base, perhaps encouraging and enhancing the quality of floor debate. However, it would maintain consistency of policy and the institutional memory of committees.

**Con:** This option likely would be of limited utility, due to little usage; if more rotation is desirable, it should be mandated. It could also increase assignments, if Members remain on committees to which they were temporarily assigned.

**J. Prohibit full committee chairs and ranking members from chairing or ranking on a subcommittee of another committee.**

**Pro:** This requirement would further spread committee authority and influence, provide newer Members earlier opportunities to head panels, and allow full committee leaders to focus attention on the issues and operations of the full panels they lead.

**Con:** Current restrictions on committee leadership positions are sufficient to spread committee power and influence; for example, one of every two House Democrats heads a panel, and nearly every Senate Republican ranks on a panel.

**K. Encourage assignment panels to decrease reliance on popularity for choosing committee Members, and seniority for choosing leaders; allow nomination of multiple individuals for chair or ranking member, regardless of seniority.**

**Pro:** Decreasing reliance on popularity and seniority could allow for more consideration of factors such as merit, prior service record, future promise, regional representation, and loyalty to party leaders. The increased competition associated with multiple candidates, and the greater likelihood of reaching far down the committee roster to choose a leader, might result in the emergence of better qualified leaders, give the party assignment panels a truer choice in choosing leaders, and increase the influence of these panels.

**Con:** Popularity is often a manifestation of merit, promise, etc., and reliance on seniority largely eliminates destructive competition, allows for predictability of leadership, and usually results in leaders expert in House rules and in the norms and issues of the panels they head. Further, a guideline might be superfluous because assignment panels already have free rein in choosing leaders.

**L.** Allow Members' choice of assignment to committees to dictate which committees are abolished, remove Members from committees for poor attendance, and eliminate committees if poor collective attendance.

**Pro:** This option, predicated upon strict assignment limitations, would eliminate committees of relatively little popularity as free standing entities. Dismissal for poor attendance would encourage Members to seek service on fewer panels, and only those most compatible with interests and constituent needs.

**Con:** This option would reduce the existence of committees to a popularity contest, and likely would mean the elimination of panels performing vital functions -- such as ethics and chamber administration -- but lacking in broad-based Member interest. Dismissal for poor attendance is unrealistic, given the many competing demands on Members' time.

#### **IV. PROCEDURES.**

##### **A. Subcommittees.**

##### **1. Ensure uniform enforcement of chamber and committee rules among subcommittees.**

**Pro:** Specifying which chamber rules apply to subcommittees, requiring committees to adopt rules for all subcommittees, and monitoring the application of rules could eliminate confusing, conflicting, and contradictory subcommittee procedures; preclude arbitrariness of subcommittee leaders; and strengthen the hand of party leaders or the chamber administration committees.

**Con:** This proposal could reduce the flexibility of each committee to determine its procedures and the discretion of committee and subcommittee leaders in interpreting and applying rules. Given differing jurisdictions, workloads, strengths, and traditions among panels, different procedures (or interpretations) might be appropriate. It also might be difficult to monitor activities to ascertain consistency and to ensure uniformity.

##### **2. Prohibit subcommittees from marking up and reporting measures.**

**Pro:** Subcommittee markups add an unnecessary step to an already complicated process; may extensively delay or otherwise threaten future action; and duplicate full committee actions. Their elimination might avoid disputes over recommendations conflicting among subcommittees, and differing from views of committee leaders or majorities.

**Con:** Subcommittee markups weed out measures unworthy of full committee attention; enhance full committee deliberation and save time; and enable the smallest and most specialized work unit to take the first cut at legislation. Especially in the House, a ban on subcommittee markups would be a radical departure from established norms.

**B. Scheduling Conflicts.**

**1. Group committees and assign each group designated days for sessions.**

**Pro:** This proposal minimizes simultaneous committee sessions that cause scheduling conflicts for Members and problems for committees in obtaining quorums; further, better attendance could improve the quality of committee deliberations. More regularized scheduling of committee sessions will increase predictability, efficiency of proceedings, and enable Members to better plan other activities.

**Con:** This arrangement would reduce the flexibility of committees; be difficult to implement, because all Members are not assigned to the same neat groups of committees; may require reductions in assignments; and might constrain floor action.

**2. Improve, and enhance the use of, the computerized scheduling system.**

**Pro:** This option better enables committees to avoid scheduling conflicts, and improves Members' ability to plan. Due to the large number of panels and committee sessions, dependence on a sophisticated computerized schedule is essential for efficient management.

**Con:** A well-developed computerized system already exists for planning and scheduling; lack of usage points to the difficulty of avoiding conflicts. Also, a system for committee sessions alone will not relieve severe workload and scheduling problems. Reductions in committee assignments and sessions, improved floor scheduling, and more coordination between committee and floor activities are needed to ease these difficulties.

**3. Prohibit all committees from meeting when the full chamber is sitting.**

**Pro:** Both committee and floor work necessitate the undivided attention of Members. This proposal makes it easier to obtain a quorum on the floor allowing fuller participation in debates, and avoids interruptions of committee deliberations with frequent floor votes.

**Con:** Committees will sometimes have urgent business necessitating meeting during floor sessions. Allowing this overlap expedites markups and reports, and markups during floor sessions could reduce morning committee quorum problems due to numerous, simultaneous hearings. Planning around floor action is not feasible without a regularized floor schedule.

**4. Designate periods early in the session for intensive committee work.**

**Pro:** Committees would benefit by uninterrupted blocks of time to draft, scrutinize, and report legislation. More intensive, early-session committee work could encourage early introduction of measures, and expedite the reporting and floor consideration of legislation.

**Con:** Political institutions need the flexibility to adjust to changing circumstances and can not be organized around concepts of efficiency and routinized managerial control. Further, there is no assurance that committees will meet during the set time, given the pressures on Members including serving constituents in the districts and states.

**5. Designate days for extended committee work, and days for floor action.**

**Pro:** Reserving certain days or other periods for intensive committee work could reduce the conflicts of mid-week scheduling by eliminating competition between committees and the floor for Members time. Reserving distinct days for committee and floor business enhances the efficiency, predictability, and quality of both proceedings.

**Con:** This proposal limits the scheduling flexibility of committees and party leaders, and may be unrealistic given the needs of both to adjust to emerging issues and circumstances. Also, evidence suggests that committee attendance is best on days the chambers meet.

**6. Encourage more joint sessions of panels.**

**Pro:** Committees and subcommittees hold duplicative sessions, inefficiently using time and resources. Joint sessions efficiently bring together the expertise and differing perspectives of panels, and lessen the difficulties and delays stemming from contradictory policy proposals reported by committees.

**Con:** Joint sessions reduce avenues of access for the Executive Branch and interest groups, would be impractical for panels with widely diverging viewpoints, lessen opportunities for influence and exposure of committee members and leaders, and weaken the gains from panels' differing approaches to policy problems.



**7. Require attendance/quorum calls and publish and widely distribute committee and subcommittee attendance and voting records.**

**Pro:** These proposals increase the likelihood of Members attending and participating in committee sessions, thus improving the quality of deliberation, committee work products, and the public's perception of committee work. Wide distribution of attendance and voting records enables the public to evaluate the performance of their elected officials.

**Con:** Routine quorum calls/attendance checks will interrupt Members at work on other legislative business, and will do little to promote real attendance if Members record their presence then promptly return to other duties. Wide public dissemination of voting records could reduce the ability of Members to compromise; both attendance and voting records could be used against incumbents in political campaigns.

**C. Quorums and Proxy Voting.**

**1. Require a majority quorum for committee business.**

**Pro:** Majority quorums could increase participation in committee business, enhancing deliberation and resulting in outputs more reflective of committee sentiment; increase the public's perception of Congress at work in committee; and promote assignment reductions.

**Con:** Requiring majority quorums could create scheduling problems, delaying meetings and hearings, and are unrealistic given the current structure of the committee system and Congress's workload.

**2. Require a recorded quorum call, and ban rolling quorums.**

**Pro:** Recorded quorum calls would improve committee attendance, and thus the quality of deliberation and work products and the public's image of committee work. Rolling quorums circumvent the intention of quorum rules and discourage real participation.

**Con:** Attendance checks will interrupt Members engaged in important duties, and will not improve participation if Members promptly return to other duties. Rolling quorums are essential given current numbers of panels and Members' assignments and workload.

**3. Prohibit proxy voting in committees and subcommittees.**

**Pro:** Banning proxy voting could increase participation in committee business; little participation undermines and distorts the deliberative process and contributes to the public's poor image of Congress. The change would end any usage of proxies as political favors, and fosters reductions in assignments.

**Con:** This change limits the flexibility of committee leaders and the majority party to schedule sessions to expedite business and to control policy outcomes. Proxies allow expression of the committee's full sentiments, guarantee the American right to vote absentee, and could not be eliminated absent other changes in the committee system.

**4. Allow proxy voting during the amendment process but not for final committee approval.**

**Pro:** This option could be viewed as a compromise between the current practice and the proposal for an across-the-board ban on proxies. During the amendment stage, this proposal would retain the advantages of proxy voting -- allowing the full sentiments of the committee to be heard, accommodation of Members' busy schedules, and the American right to vote absentee. However, because the vote to report is the most critical, Members must vote in-person.

**Con:** The amendment process is the most critical stage of committee deliberation, yet this option continues to allow those not present during the discussion to vote in absentia. Proxy voting distorts the deliberative process, and in sanctioning absenteeism, contributes to the public's poor image of Congress.

**D. Hearings and Meetings.****1. Encourage alternative formats for information gathering and deliberation, including seminars, roundtables, and debates.**

**Pro:** The staid format of traditional hearings does little to expose policy problems, develop solutions, and enlighten committee members about issues. Needed are formats that probe the depth and breadth of information, provide Members with stimulating debate on ranging viewpoints, and increase citizen participation in the political process.

**Con:** The information gathering and policy development functions of hearings are well-served during hearings preparation, if not during actual sessions. Also, debates and other freer flowing formats decrease ability to adequately structure committee sessions possibly resulting in undesirable outcomes.

**2. Adopt a rule requiring Members to question witnesses in order of arrival at hearings.**

**Pro:** This option might increase more timely attendance, facilitating the progress of committee sessions. Order of arrival is a fairer and less arbitrary criterion than seniority.

**Con:** This rule would penalize Members with conflicts not of their making, may result in competition to enter sessions, and could preclude the most senior and knowledgeable committee members from shaping debate.

**3. Open all committee sessions, or further limit the circumstances for closing.**

**Pro:** Despite current openness requirements, committees close many sessions. Mandating "sunshine" for committee sessions, except for those dealing with classified matters, would facilitate access to, and input into, governmental decision making by Members, staff, the Executive Branch, and the public.

**Con:** Most sessions are open, indicating that current openness requirements are adequate. Also, openness limits Members' ability to speak frankly and to compromise, and could promote grandstanding and partisanship.

**4. Close committee sessions unless a committee votes to open.**

**Pro:** There is too much "sunlight". Closed sessions allow Members to talk openly and candidly and to compromise; discourage grandstanding, speechmaking, and posturing; and could reduce the partisanship resulting from open sessions.

**Con:** Closed sessions circumvent Congress's responsibility to inform the public, deny voters needed access for evaluating legislative actions and Members' roles in the same, and contravene American traditions of democracy and openness. No committee should routinely close sessions, especially those making critical budgeting and spending decisions.

**5. Require public announcement of the time, date, place, subject matter, and participants of committee and subcommittee hearings and meetings, and specify where the announcement is to be made.**

**Pro:** Expanding the breadth of notification requirements will provide Members, staff, and the public with better information, and facilitate public access to committee sessions. Specifying the announcement's location makes it easier to find and promotes compliance.

**Con:** The many sources that detail committee sessions provide adequate notification, and committees regularly publicize their sessions in the established places. At the heart of public access issues are the time, distance, and monetary costs associated with citizen travel to Washington, which this proposal does not address.

**6. Encourage C-SPAN or other television coverage of committee meetings, and expand coverage of hearings.**

**Pro:** Expanded television coverage, for example, putting each committee's sessions on a channel of the House and Senate cable systems, would further Congress's public education role; allow Members absent from their committee sessions to follow debates from their offices and participate more usefully upon their arrival; and enable Members and staff to monitor sessions of other panels without having to attend.

**Con:** Expanded coverage could lengthen the legislative process; encourage grandstanding and posturing; adversely affect Members' ability to compromise; and be quite costly.

**V. DOCUMENTS.**

**A. Increase the timely availability of all printed materials (including committee reports), and adopt criteria for denying access to materials.**

**Pro:** Committee documents, including hearings and reports, often are not filed expeditiously enough to allow review of their contents before floor action on related proposals. More timely filing and printing of documents are feasible given computer technology, would reduce tactical delays, and would be fairer to Members and the public who depend on prompt legislative information. Also, fair and standardized criteria are needed delineating any circumstances for denying access to these documents.

**Con:** Hastening preparation of documents could diminish quality and may not result in faster, better coordinated, or better informed chamber action. More expeditious filing of committee reports may not be in the best interests of the chambers, because developing legislative strategy, enlisting support, and obtaining a place on the calendar are time consuming. Also, documents are easily available to Congress and the public, and standards for denial may send the wrong message.



**B. Develop a computerized system for accessing committee documents.**

**Pro:** Accession by computer for Members, staff, and the public would allow for prompt review of documents not yet printed and disseminated, save costs associated with printing, and facilitate the location and retrieval of information when and wherever needed.

**Con:** Such system could be quite costly to develop and maintain, and may be underused since Congress is accustomed to paper documentation.

**C. Require more subcommittee documentation when reporting.**

**Pro:** Subcommittees could prepare reports similar to those required by full committees, to assist full committees with their deliberations. Subcommittee reports would expedite preparation of reports by full committees.

**Con:** More extensive subcommittee documentation may not be an efficient use of time on measures not taken up or reported by the full committee, and could burden subcommittee resources generating requests for increases.

**D. Publish transcripts of markup sessions.**

**Pro:** Publishing such records could provide a more complete record of committee activities; enlarge the legislative record; and encourage more procedural formality, and thus better work products and more procedural protection for minorities.

**Con:** Such publication might change the informal and collegial nature of many markups; prolong markups if committees adhere to formal procedures; and require the hiring of additional court reporters and GPO and committee staff.

**E. Revise requirements for inclusions in committee reports.**

**Pro:** Although required, analytical, detailed impact statements -- including paperwork, regulatory, and inflationary -- often are not provided in committee reports. Also, their inclusion often is of little use since they are geared towards introduced measures. Other impact statements based on reported versions of measures, including administrative ones explaining how proposals can be implemented, may better assist with policy development.

**Con:** Rather than remove current requirements, some inducement should be found to encourage compliance by committees; their elimination sends the signal that Congress little values the type of information sought. Additional requirements could delay the preparation and printing of reports, and may mean hiring staff with different backgrounds.

**F. Ban staff reports and other documents not approved by committee majority.**

**Pro:** A significant number of documents not majority-approved are unrepresentative of the committee and fall short in fairness and integrity, yet are indistinguishable from official committee products. Majority approval of all documents would remove these problems. Additionally, a disclaimer of committee endorsement could be required on all such documents, or the minority could be given opportunity to file views in all documents.

**Con:** Most documents not technically approved by a majority contribute usefully to the legislative process. Members and staff are able to differentiate among documents, and requiring meetings to approve each one would delay publication and dissemination of valuable information. Moreover, committee minorities need forums for expressing views.

**VI. OTHER OPTIONS.**

**A. Create a mechanism to insure that committee procedures are consistent with chamber rules, and give committee staff more procedural training and guidance.**

**Pro:** Such mechanism ensures that committee procedures do not contravene chamber rules, and could preclude arbitrariness of committee leaders in interpreting and applying rules. More training and guidance provided by the Parliamentarians or other knowledgeable staff would add more procedural expertise among committee Members and staff and uniformity of procedures among committees.

**Con:** This proposal could reduce needed flexibility in interpreting and applying procedures, result in more complex and prolonged committee sessions, greatly overburden the Parliamentarians and likely require their hiring substantial additional staff.

**B. Increase bipartisanship by requiring that the minority is informed and consulted to the maximum degree possible.**

**Pro:** Increasing partisanship has poisoned committee deliberations, delaying compromise and final action, lessening output, and depriving the Nation of much-needed solutions to problems. Increased formal consultation with the minority will facilitate development of constructive alternatives and compromises, and improve the quality of work products.

**Con:** Bipartisanship cannot be mandated; it is a product of the norms, customs, attitudes, and beliefs of each party and committee. Moreover, an increased role for the minority diminishes the right of the majority party to organize and run committees and the chamber as needed to carry out its electoral mandate.

**C. Allow a minority of committee Members authority to subpoena.**

**Pro:** Requiring a majority to subpoena often results in party-line, political votes that reject the information needs of substantial committee minorities. Allowing a minority to subpoena reduces impediments to obtaining information bearing on committee actions. This option could be analogous to the current rule allowing a majority of minority party Members to choose witnesses.

**Con:** A minority-issued subpoena may be used excessively to frustrate majority actions, and more subpoenas could slow, deter, or kill committee actions. Majority approval better reflects committee wishes and is more in keeping with democratic decision making.

**D. Create policy committees comprised of committee leaders to periodically review the effectiveness of the committee system.**

**Pro:** The committee system, like any process or institution, needs constant monitoring to ensure efficiency, effectiveness, and fairness. Committee leaders have the expertise to review the system and to recommend periodic adjustments consistent with emerging needs.

**Con:** This option may pose a burden on committee leaders and reduce the influence of the chambers' rules and administrative committees. Also, committee leaders are unlikely to alter the status quo, and input from the rank and file is not provided for.

**E. Make cloture rule applicable to Senate committees.**

**Pro:** A cloture rule would more easily combat committee filibusters, allowing measures to be more expeditiously reported, and would allow committee members the same procedural tools available in the full Senate.

**Con:** This option denies opposition Senators a time-honored tactic for preventing issues from coming before the full Senate.

The Joint Committee on the Organization of Congress  
Database of Positional Statements

*This database was prepared by Committee staff as a tool for our Members. This is not for re-publication or attribution. This matrix is an attempt to accurately reflect the views of our witnesses but should not be used as a substitute for the actual hearing record.*

## ISSUE AREA 3: COMMITTEES

### List of Options Proposed

1. General Jurisdictional Change and/or "Rationalization" of Jurisdiction
2. Create a Moderate Number of Panels with Jurisdictions Based on Policy (or specifically Budget) Functions
3. Create Parallel Committee Systems in House and Senate
4. Correspond Jurisdictions with Executive Branch Structure
5. Make House Referrals Based on Predominant Jurisdiction
6. Restrict Multiple Referrals
7. Impose Time Limits for Reporting on All Committees Involved in Multiple Referrals
8. Create Special Subcommittees or Ad Hoc Committees for Issues that Cut Across Jurisdictions
9. Reduce the Number of Committees and Subcommittees
10. Reduce the Size of Committees and Subcommittees
11. (Abolish/Establish) Select, Special, and Joint Committees
12. Require Chamber or Party Conference Approval to Establish Subcommittees
13. Establish (Sub)Committee Sizes in House Rules
14. Require the Party Ratio of Committees/ Subcommittees to Reflect the Chamber Ratio
15. Enforce Existing Assignment Limitations and End Temporary Assignments
16. Limit the Number of Members' Assignments (or Chairmanships) to Committees and Subcommittees
17. Increase the Leadership Role in Choosing Committee and Subcommittee Members and Leaders
18. Reform Assignment Procedure
19. Establish Term Limits for Serving on and/or Chairing or Ranking on Committees
20. Require Attendance/Quorum Calls and Publish and Widely Distribute Committee and Subcommittee Attendance and Voting Records
21. Require a Majority Quorum for Committee Business
22. Require a Recorded Quorum Call, and Ban Rolling Quorums
23. Limit Proxy Voting in Committees and Subcommittees



24. Encourage Alternative Formats for Information Gathering and Deliberation
25. "Early-Bird Rule": Adopt a Rule Requiring Members to Question Witnesses in Order of Arrival at Hearings
26. Open/Close All Committee/Chamber Sessions
27. Create a Mechanism to Insure that Committee Procedures are Consistent with Chamber Rules
28. CRS Plans
29. Miscellaneous Comments

Proposed: Make Jurisdictional Changes

## COMMITTEES:

### 1. General Jurisdictional Change And/Or "Rationalization" of Jurisdiction

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Representative Dingell	4/29, 186	
For	Davidson, Roger - Academic, University of Maryland	4/20, 44	
	Frenzel, Bill - Former Representative	1/28, 12	
	Jones, Jim - Former Representative	1/28, 9	
	Mann, Thomas - The Brookings Institution	2/16, 22	Recommends against measuring the Joint Committee's success solely off this issue
	Massee, Ned - U.S. Chamber of Commerce	6/29, 76	
	Perot, H. Ross - Private Citizen	3/2, 16	
	Representative Allard	5/6, 282	
	Representative Bateman	4/29, 208	
	Representative Beilenson	3/23, 7	
	Representative Boehner	2/4, 70	
	Representative Brown, George	3/16, 29	
	Representative Buyer	6/16, 229	
	Representative Castle	2/4, 17	
	Representative Collins, Mac	2/4, 243	
	Representative Combest	4/22, 82	
	Representative Dellums	5/13, 1063	
	Representative Derrick	5/13, 388	
	Representative Dickey	2/4, 156	
	Representative Fowler	4/1, 25	
	Representative Glickman	4/22, 66	

Proposed: Make Jurisdictional Changes

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Representative Gonzalez	4/29, 222	
	Representative Goss	2/4, 146	
	Representative Hastert	2/4, 240	
	Representative Kanjorski	6/16, 49	
	Representative Leach	4/29, 225	
	Representative Machtley	2/4, 76	
	Representative McCurdy	2/4, 35	
	Representative McHale	2/4, 83	
	Representative Mica	6/16, 11	
	Representative Michel	1/26, 34,	
	Representative Miller, George	4/22, 111	
	Representative Mineta	5/6, 303	
	Representative Minge	6/16, 44	Wants to equalize jurisdiction of committees
	Representative Moakley	5/20, 74	
	Representative Myers	4/29, 218	
	Representative Price	2/4, 4	
	Representative Regula	6/16, 7	
	Representative Solomon	2/4, 221	
	Representative Studds	4/29, 208	
	Representative Taylor	2/4, 61	
	Ribicoff, Abraham - Former Senator	2/16, 80	
	Robinson, Pete - Former Assistant House Parliamentarian	5/18, 55	
	Rudman, Warren - Former Senator	1/28, 17	
	Senator Bumpers	5/11, 926	
	Senator Dole	1/26, 54	
	Senator Dorgan	6/29, 271	

Proposal: Make Jurisdictional Changes

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Senator Ford	4/1, 7	
	Senator Glenn	6/24, 60	
	Senator Leahy	4/27, 125	
	Senator Mikulski	3/18, 22	
	Senator Pell	5/13, 1050	
	Sperry, Roger	4/20, 48	
	Volcker, Paul - Former Chairman, Federal Reserve	6/22, 29	
See Note	Mason, David - Heritage Foundation	2/16, 171	Jurisdictional realignment is "relatively unimportant" if the number of committees is reduced
	Representative Rostenkowski	4/22, 90	Advises a slow, cautious approach. Make changes only if there is a "real problem"



Proposed: Create a Moderate Number of Panels with Jurisdictions Based on Policy ...

## COMMITTEES:

### 2. Create a Moderate Number of Panels with Jurisdictions Based on Policy Functions/Create Jurisdictions Based on Budget Functions

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Davidson, Roger - Academic, University of Maryland	4/20, 44	
	Mann, Thomas - The Brookings Institution	4/20, 487	Should be based upon emerging policy areas
	Representative Glickman	4/22, 66-8	Presents a plan combining existing committees by policy function
	Representative Hastert	2/4, 240	
	Representative Miller, George	4/22, 115-6	Discusses jurisdictional organizational principles
	Senator Glenn	6/24, 60	
	Senator Pell	5/13, 1050	

Proposal: Create Parallel Committee Systems in House and Senate

## COMMITTEES:

### 3. Create Parallel Committee Systems in the House and Senate

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Representative Clay	4/29, 219	
	Representative Dingell	4/29, 200	
	Senator Inouye	5/4, 264	
For	Cobb, Tyrus - Business Executives For National Security	6/29, 615	
	Davidson, Roger - Academic, Univ. of Maryland	4/20, 45	
	Representative Conyers	6/24, 55	Believes in general principle of House and Senate alignment
	Representative Kanjorski	6/16, 257	
	Representative Leach	4/29, 225	
	Representative Mineta	5/6, 309	
	Representative Montgomery	5/6, 290-291	
	Representative Myers	4/29, 219	
	Representative Price	2/4, 5	
	Representative Rohrabacher	2/4, 15	
	Ribicoff, Abraham - Former Senator	2/16, 80	
	Senator Boren	2/16, 6	
	Senator Bumpers	5/11, 926	
	Senator Domenici	1/26, 36, 78	Recommends general streamlining, and "probably making [jurisdiction] harmonious in two Houses"
	Senator Harkin	5/25, 148	
	Senator Leahy	4/27, 123	
	Senator Murkowski	4/27, 140	
	Senator Pell	5/13, 1052	



Proposal: Correspond Jurisdictions with Executive Branch Structure

## COMMITTEES:

### 4. Correspond Jurisdiction with Executive Branch Agencies

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Brock, William - Former Senator	4/20, 25	
	Jones, Jim - Former Representative	1/28, 16	
	Representative Kanjorski	6/16, 257	
	Ribicoff, Abraham - Former Senator	2/16, 11	
	Rudman, Warren - Former Senator	1/28, 17	
See Note	Mann, Thomas - The Brookings Institution	2/16, 100	"As part of...[the jurisdictional] exercise," Executive Branch organization & legislative parallelism should be considered.
	Ornstein, Norm - American Enterprise Institute	2/16, 100	"As part of...[the jurisdictional] exercise," Executive Branch organization & legislative parallelism should be considered.



Proposed: Make House Referrals Based on Predominant Jurisdiction

**COMMITTEES:**  
**5. Make House Referrals Based**  
**on Predominant Jurisdictions**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
See Note	Robinson, Pete - Former Assistant House Parliamentarian	5/18, 43	Speaker should "have tools" to make more primary committee assignments while retaining right to send to other committees for limited periods of time

Proposal: Restrict Multiple Referrals

## COMMITTEES:

### 6. Restrict Multiple Referrals

POSITION	NAME OF WITNESS	PAGE #	POSITION
For	Representative Allard	6/16, 64	
	Representative Castle	2/4, 17	
	Representative Clay	4/29, 216	
	Representative Derrick	5/13, 392	
	Representative Fields	6/7, 1060	
	Representative Fingerhut	4/1, 15	
	Representative Glickman	4/22, 65	
	Representative Hastert	2/4, 240	
	Representative Hefley	2/4, 132	
	Representative Kanjorski	6/16, 49	
	Representative Mazzoli	2/4, 163	
	Representative Solomon	4/29, 173	
	Representative Young, Don	5/13, 402	
	Senator Lott	5/20, 74	
See Note	Representative Dingell	4/29, 189	Multiple referrals shouldn't be used to put legislation in a particular committee without regard to subject matter
	Representative Michel	1/26, 34	Subject "deserves review"
	Representative Moakley	5/20, 74	Reducing committees will help with referrals

Proposal: Impose Time Limits for Reporting... Multiple Referrals

## COMMITTEES:

### 7. Impose Time Limits for Reporting on All Committees Involved in Multiple Referrals

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Representative Rostenkowski	4/22, 96	
For	Mann, Thomas - The Brookings Institution	4/20, 504	
	Representative Dreier	5/4, 242	
	Representative LaFalce	5/4, 237	
	Representative Skelton	2/4, 21	
	Representative Studds	4/29, 633	
See Note	Representative Miller, George	4/22, 541	Would limit time on bills reported by one committee which weren't expressly voted against by the other committees involved
	Brown, William Holmes - House Parliamentarian	5/18, 3	States Speaker already has the ability to place time limits on bills

Proposal: Create Special Subcommittees or Ad Hoc Committees ...

**COMMITTEES:**  
**8. Create Ad Hoc Committees for**  
**Issues that Cut Across Jurisdictions**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Davidson, Roger - Academic, University of Maryland	4/20, 465	
	Gradison, Bill - Former Representative	3/30, 35	
	Mann, Thomas - The Brookings Institution	2/16, 23	
	Representative Castle	2/4, 120	
	Representative Hall, Tony	4/29, 169	For hunger issues
	Representative de la Garza	5/11, 328	
	Stevenson, Adlai - Former Senator	4/20, 21	



Proposed: Reduce the Number of Committees and Subcommittees

**COMMITTEES:**  
**9. Reduce the Number of  
Committees and Subcommittees**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Representative Clay	4/29, 217	

Proposal: Reduce the Number of Committees and Subcommittees

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For Both  (These witnesses expressed support for the proposal to eliminate Committees AND Subcommittees.)	Brock, William - Former Senator	4/20, 25	
	Jones, Jim - Former Representative	1/28, 16	
	Mann, Thomas - The Brookings Institution	2/16, 97	
	Marsh, John - Former Representative and Former Secretary of Army	6/22, 23	
	Mason, David - Heritage Foundation	2/16, 65	
	Massee, Ned - U.S. Chamber of Commerce	6/29, 347	
	Mondale, Walter - Former Vice-President	7/1, 13	
	Ornstein, Norm - American Enterprise Institute	2/16, 98	
	Representative Boehner	2/4, 70	
	Representative Brown, George	3/16, 30	
	Representative Castle	2/4, 17	
	Representative Collins, Mac	2/4, 243	
	Representative Dellums	5/13, 1061	
	Representative Doolittle	2/4, 71	
	Representative Dreier	4/22, 92	
	Representative Emerson	5/25, 110	
	Representative Mazzoli	2/4, 162	
	Representative McCurdy	2/4, 35-36	
	Representative McHale	2/4, 83	
	Representative Moakley	5/20, 75	

Proposal: Reduce the Number of Committees and Subcommittees

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Representative Price	2/4, 4, 6	
	Representative Regula	6/16, 8	
	Representative Quinn	2/4, 187	
	Representative Smith, Neal	6/29, 73	
	Representative Solomon	4/29, 180	
	Representative Taylor	2/4, 61	
	Representative Torkildsen	4/1, 25	
	Ribicoff, Abraham - Former Senator	2/16, 3	
	Schatz, Tom - Citizens Against Government Waste	6/29, 89	
	Senator Boren	1/26, 87	Would reduce the total number from 300 to 50
	Senator Cohen	1/26, 63-64	Stressed that subcommittees must be reduced too
	Senator Glenn	6/24, 60	
	Senator Harkin	5/25, 147	
	Senator Lott	1/26, 41	
	Senator Reid	1/26, 68	
	Volcker, Paul - Former Chairman, Federal Reserve	6/22, 29	
For Committees  (These Witnesses expressed support for the proposal to reduce, specifically, the number of Committees.)	Davidson, Roger - Academic, University of Maryland	4/20, 44	
	Representative Allard	5/6, 282	
	Representative Crapo	2/4, 81	
	Representative Derrick	5/13, 388	
	Representative Hutto	2/4, 27	
	Representative Kanjorski	6/16, 49	
	Representative Leach	4/29, 225	

Proposal: Reduce the Number of Committees and Subcommittees

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Representative Michel	1/26, 34	
	Representative Miller, George	4/22, 111	
	Representative Taylor	2/4, 61	
	Robinson, Pete - Former Assistant House Parliamentarian	5/18, 55	
	Senator Dole	1/26, 53	
For Subcommittees  (These Witnesses expressed support for the proposal to reduce, specifically, the number of subcommittees.)	Brademas, John - Former Majority Whip, House of Representatives	6/22, 41	
	Frenzel, Bill - Former Representative	1/28, 12	
	Horton, Frank - Former Representative	6/29, 85	
	Leape, Gerald - Greenpeace	6/29, 103	
	Representative Bateman	4/29, 206	
	Representative Dingell	4/29, 188	
	Representative Gilman	5/13, 398	
	Representative Hastert	2/4, 240	
	Representative LaFalce	5/4, 239	
	Representative Meyers	4/22, 526	
	Representative Montgomery	5/6, 287	
	Representative Obey	4/22, 97	
	Representative Rostenkowski	4/22, 90	
	Representative Skelton	2/4, 23	
	Representative Studds	4/29, 203	
	Representative Young, Don	5/13, 401	
	Senator Dorgan	6/29, 271	



Proposal: Reduce the Number of Committees and Subcommittees

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Senator Ford	4/1, 11	
	Senator Kassebaum	3/16, 18	
	Senator Leahy	4/27, 133	
	Senator Mikulski	3/18, 19	
	Senator Nunn	6/29, 139	
	Senator Reid	1/26, 68	
See Note	Representative Glickman	4/22, 66	Reduce number of full Committees; fold minor into major, creating new subcommittees

Proposal: Reduce the Size of Committees and Subcommittees

## COMMITTEES:

### 10. Reduce the Size of Committees and Subcommittees

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For  (Witness Indicated general support for the proposal.)	Derwinski, Edward - Former Secretary, Dept. of Veterans' Affairs	6/22, 3	
	Representative Conyers	6/24, 53	
	Representative Goss	2/4, 146	
	Representative LaFalce	5/4, 239	
	Representative Leach	4/29, 669-670	
	Representative Montgomery	5/6, 287	
	Representative Smith, Neal	6/29, 73	
For Both <sup>1</sup>	Mann, Thomas, The Brookings Institution	4/20, 51,487	
	Representative Dingell	4/29, 199	
For Committees  (Witnesses specifically favored size reduction of Full Committees.)	Gradison, Bill - Former Representative	3/30, 35	
	Representative Crapo	2/4, 199	
	Representative Dellums	5/13, 1064	
	Representative Gonzalez	4/29, 222	
	Representative McCurdy	2/4, 35	
	Representative Myers	4/29, 218	
	Representative Obey	4/22, 97	
	Representative Rostenkowski	4/22, 90	
	Representative Studds	4/29, 204	
	Senator Bumpers	5/11, 362	
	Senator Byrd	2/2, 8	

<sup>1</sup> Witnesses favor size reduction of both Full and Sub-Committees.

Proposal: Reduce the Size of Committees and Subcommittees

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
See Note	Senator Mitchell	1/26, 118-119	Leaders should have the power to change size to match changes in Chamber Membership ratio

## COMMITTEES:

### 11. Abolish Select, Special, and Joint Committees

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Abolish Select and Special Committees	Frenzel, Bill - Former Representative	1/28, 12	
	Jones, Jim - Former Representative	1/28, 9	*Temporary committees should be temporary*
	Mann, Thomas - The Brookings Institution	2/16, 23	
	Representative Goodling	2/4, 19-20	
	Representative Goss	2/4, 146	
	Representative Meehan	2/4, 196	
See Note	Representative Foley	1/26, 19	Counseled against trying to make committees joint
	Representative McHale	2/4, 83	It was unwise to eliminate the Select Committee on Children, Youth, & Families
	Representative Rostenkowski	4/22, 93	Keep Present Joint Committees; could combine administrative functions to save money

Proposal: Require Chamber or Party Conference Approval ...

**COMMITTEES:****12. Require Chamber or Party  
Conference Approval to Establish Subcommittees**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Senator Inouye	5/4, 269	



Proposal: Establish (Sub)Committee Sizes in House Rules

**COMMITTEES:****13. Establish Committee Sizes in Chamber Rules, and Caps on Total Full- and Sub-Committee Slots in Both Chambers' Rules**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For (House)	Mann, Thomas - The Brookings Institution	2/16, 98	
	Omstein, Norm - American Enterprise Institute	2/16, 98	
For (Senate)	Stevenson, Adlai - Former Senator	4/20, 27	

Proposal: Require the Party Ratio of Committees/Subcommittees to Reflect the Chamber Ratio

**COMMITTEES:**  
**14. Require the Party Ratio**  
**of Committees/Subcommittees**  
**to Reflect the Chamber Ratio**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Representative Buyer	6/29, 34	
	Representative Crapo	2/4, 81	
	Representative Goss	2/4, 145	
See Note	Representative Foley	1/26, 15	Has tried to have committee ratios reflect Chamber ratio except for Ways and Means and Rules

Proposal: Enforce Existing Assignment Limitations ...

**COMMITTEES:**  
**15. Enforce Existing Assignment  
 Limits and End Temporary Assignments**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Hildenbrand, Bill - Former Secretary of the Senate	5/18, 186	
	Mann, Thomas - The Brookings Institution	2/16, 98	
	Ornstein, Norm - American Enterprise Institute	2/16, 98	
	Representative LaFalce	5/4, 237	
	Representative Tauzin	5/25, 136	
	Ribicoff, Abraham - Former Senator	2/16, 80	
	Senator Dole	1/26, 54	
	Senator Mitchell	1/26, 52	
See note	Frumin, Alan - Senate Parliamentarian	5/18, 17	Could provide point of order against consideration of waiver that violates limit

Proposal: Limit the Number of Members' Assignments (or Chairmanships) ...

## COMMITTEES:

### 16. Limit Members' Assignments to Committees and Subcommittees

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For Assignments  (These Witnesses Voice General Support For Limitation of Assignments.)	Brademas, John - Former Majority Whip, House of Representatives	6/22, 41	
	Brock, William - Former Senator	4/20, 24-25	
	Davidson, Roger - Academic, University of Maryland	4/20, 44	
	Horton, Frank - Former Representative	6/29, 85	
	Hildenbrand, Bill - Former Secretary of the Senate	5/18, 186	
	Mondale, Walter - Former Vice-President	7/1, 13	
	Representative Beilenson	3/23, 7	
	Representative Brown, George	3/16, 26	
	Representative Clay	4/29, 215	
	Representative Derrick	5/13, 388	
	Representative Dingell	4/29, 188	
	Representative Dreier	2/2, 55	Banning proxy voting will help this
	Representative Emerson	5/25, 110	
	Representative Hastert	2/4, 240	
	Representative Mazzoli	2/4, 56	
	Representative McHale	2/4, 85	
	Representative Mica	6/16, 11	
	Representative Michel	1/26, 24	
	Representative Miller, George	4/22, 111	But warns this may parochialize Congress by compelling Members to serve only on constituency committees; 4/22, p. 541
	Representative Moorhead	5/11, 342	

Proposal: Limit the Number of Members' Assignments (or Chairmanships) ...

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Representative Natcher	3/11, 4, 19	
	Representative Regula	6/16, 146	
	Representative Rohrabacher	2/4, 15	
	Representative Rostenkowski	4/22, 90	
	Representative Solomon	4/29, 173	
	Representative Swift	4/29, 195	
	Representative Walker	4/29, 196	
	Representative de la Garza	5/11, 329	
	Ribicoff, Abraham - Former Senator	2/16, 3	
	Senator Bennett	4/1, 51	
	Senator Boren	1/26, 39	
	Senator Brown	2/2, 47	
	Senator Bumpers	5/11, 362	
	Senator Byrd	2/2, 5	
	Senator Cohen	1/26, 46	
	Senator Coverdell	4/1, 56	
	Senator DeConcini	5/13, 413	
	Senator Dole	1/26, 127	
	Senator Domenici	1/26, 78	Says that limiting assignments without correcting jurisdiction is misguided: 2/16, p. 10
	Senator Ford	4/1, 5	
	Senator Harkin	5/25, 147-148	
	Senator Leahy	4/27, 126	
	Senator Lott	1/26, 41	
	Senator Lugar	1/26, 46	
	Senator Mikulski	3/18, 19	
	Senator Murkowski	4/27, 152	



Proposal: Limit the Number of Members' Assignments for Chairmanships) ...

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Senator Murray	4/1, 40	
	Senator Rockefeller	4/27, 151	
For Both (These Witnesses support limitation of both assignments AND Chairs/ Ranking for each Member.)	Mann, Thomas, The Brookings Institution	4/20, 491, 493	
	Omstein, Norman - American Enterprise Institute	4/20, 491, 493	
	Representative Bliley	5/13, 1076	
	Representative LaFalce	5/4, 235, 239	Should "consider" limiting chairmen
	Representative Minge	6/16, 44	
	Representative Montgomery	5/6, 287	
	Stevenson, Adlai - Former Senator	4/20, 28, 29	
For Limitation of Chairs <sup>1</sup>	Representative Buyer	6/16, 227	
	Senator Mitchell	1/26, 119	"No additional subcommittee chairs" for 3rd A or 2nd B assignment; also suggests no staff and no seniority accrual
For Limitation of Sub-committees <sup>2</sup>	Representative Bateman	4/29, 206	
	Representative Dellums	5/13, 1064	
	Representative Studds	4/29, 203	
Undecided	Representative Roemer	6/19, 5	Maybe assignment limits on subcommittee seats

<sup>1</sup> These Witnesses support limiting each Member's Chairs/ Ranking Assignments.

<sup>2</sup> These Witnesses support limiting subcommittee assignments.

Proposal: Increase the Leadership Role In Choosing Committee ...

## COMMITTEES:

### 17. Increase the Leadership Role in Choosing Committee and Subcommittee Members and Leaders

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Senator Byrd	2/2, 13	
	Senator Dole	1/26, 68	He cites efficacy of seniority and suggests Leader would be pressured
For	Representative McCurdy	2/4, 36	
	Senator Mitchell	1/26, 66-67	Majority and Minority Leaders should have exclusive power to make assignments; 1/26, p. 52
	Senator Reid	1/26, 66-67	

## COMMITTEES:

### 18. Reform Assignment Procedure

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For (Supports General Reform in Assignment Procedure)	Representative Rostenkowski	4/22, 90-91	Nominations should be made by small, autonomous, semi-permanent bodies w/in caucus; reduce popularity & number of 'Advocates'
For (Chairs) (Supports Reform in Selection of Chairs/ Ranking)	Representative Price	2/4, 103	
See Note	Senator Lugar	4/22, 95	Says that Rostenkowski's proposal "is an extremely important thought"

Proposal: Establish Term Limits for All Committee Participation

## COMMITTEES:

### 19. Establish Term Limits for Serving on and Chairing or Ranking on Committees

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Representative Rose	5/6, 294	
	Senator Byrd	2/2, 16	
Against Limits for Chairs/Ranking Members	Representative Fingerhut	4/1, 16	
For  (Supports Term Limits for Assignments.)	Senator Glenn	6/24, 62	For certain committees such as Intelligence, Budget and Appropriations
	Representative Kim	2/4, 94	Limit terms on Appropriations
	Representative Hefley	2/4, 31	
	Representative Shaw	2/4, 28	
	Senator Grassley	2/2, 42-3	
For Both  (Supports Term Limits for both rank-and-file and Chairmanship assignments.)	Massee, Ned - U.S. Chamber of Commerce	6/29, 75	
	Representative Collins, Mac	2/4, 243	
	Representative Mazzoli	2/4, 162	
For Chairs  (Supports Limiting Terms of Chairmen/Ranking Members.)	Mason, David - Heritage Foundation	2/16, 171	
	Republican Freshmen	4/1, 87	
	Representative Buyer	6/16, 33	
	Representative Canady	2/4, 91	
	Representative Castle	2/4, 17, 120	
	Representative Crapo	2/4, 87	
	Representative Goss	2/4, 145	
	Representative Linder	2/4, 92	
	Representative McCurdy	2/4, 36	

Proposal: Establish Term Limits for All Committee Participation

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Representative Meehan	2/4, 79	
	Representative Minge	6/16, 45	
	Representative Porter	2/4, 24	
	Representative Quinn	2/4, 188	
	Representative Torkildsen	4/1, 25	
	Senator Bennett	4/1, 60	
	Senator Boren	2/4, 39	



Proposed: Require Attendance/Quorum Calls...

## COMMITTEES:

### 20. Require Attendance/Quorum Calls and Publish and Widely Distribute Committee and Subcommittee Attendance and Voting Records

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Mann, Thomas - The Brookings Institution	4/20, 505	
	Ornstein, Norm - American Enterprise Institute	4/20, 505	
	Representative Emerson	5/20, 110-111	
	Representative Hastert	2/4, 240	
	Representative Regula	6/16, 8	
	Representative Tauzin	5/25, 136	
	Senator Brown	2/2, 55	
	Senator Lugar	5/25, 112	
	Sinclair, Barbara - University of California	5/20, 100	
	Smith, Steve - University of Minnesota	5/20, 101	

Proposal: Require a Majority Quorum for Committee Business

**COMMITTEES:**  
**21. Require a Majority Quorum for**  
**Committee Business**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Representative Solomon	2/4, 222	
	Representative Tauzin	5/25, 136	

Proposal: Require Recorded Quorum Call/Ban Rolling Quorums

**COMMITTEES:**  
**22. Require a Recorded Quorum Call,  
and Ban Rolling Quorums**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Representative Gilman	5/13, 396	
	Representative Solomon	2/4, 222	

## COMMITTEES:

### 23. Limit Proxy Voting in Committees and Subcommittees

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Representative de la Garza	5/11, 338	
	Representative Dingell	4/29, 197	
	Representative LaFalce	5/4, 243	
	Senator Mitchell	1/26, 52	
For	Representative Castle	2/4, 17	
	Representative Combest	4/22, 83	
	Representative Crapo	2/4, 82	
	Representative Derrick	5/13, 388	
	Representative Doolittle	2/4, 63	
	Representative Dreier	2/2, 54-55	
	Representative Dunn	4/20, 15	
	Representative Emerson	5/25, 111	
	Representative Gilman	5/13, 396	
	Representative Hastert	2/4, 240	
	Representative Hefley	2/4, 131	
	Representative Mazzoli	2/4, 56	
	Representative Moakley	5/20, 75	
	Representative Montgomery	5/6, 289	
	Representative Moorhead	5/11, 342	
	Representative Regula	6/16, 8	
	Representative Rohrabacher	2/4, 15	
	Representative Solomon	2/4, 222	
	Representative Tauzin	5/25, 142	
	Representative Torkildsen	4/1, 25	
	Representative Upton	2/4, 52	
	Representative Walker	4/29, 196	

Proposal: Limit Proxy Voting

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Representative Young, Don	5/13, 405	
	Schatz, Tom - Citizens Against Government Waste	6/29, 89	
	Senator Brown	2/2, 47	
	Senator Dole	1/26, 56	
	Senator Lott	1/26, 41	
See Note	Representative Moakley	5/20, 75	Reducing number of committees eliminates need for proxy voting



**COMMITTEES:**  
**24. Encourage Alternative Formats**  
**for Information Gathering and Deliberation**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Mann, Thomas - The Brookings Institution	2/16, 101	
	Omstein, Norman - American Enterprise Institute	2/16, 101	
	Representative Machtley	2/4, 76	

Proposal: Adopt an "Early-Bird Rule"

## COMMITTEES:

### 25. "Early-Bird Rule": Adopt a Rule Requiring Members to Question Witnesses in Order of Arrival at Hearings

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Mann, Thomas - The Brookings Institution	2/16, 101	
	Ornstein, Norman - American Enterprise Institute	2/16, 101	
	Democratic Freshmen	4/1, 79	

Proposal: Open All Committee Sessions/Close All Committee ...

## COMMITTEES:

### 26. Open/Close All Committee/Chamber Sessions

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Closed	Representative Dingell	4/29, 190	Some closed sessions are beneficial
	Representative Young, Don	5/13, 402	Close House floor on controversial legislation
Open	Hildenbrand, Bill - Former Secretary of the Senate	5/18, 47	
	Representative Bacchus	2/4, 33	Only have closed sessions for national security matters or investigative hearings that could "incriminate" any person
	Representative Dreier	5/20, 83	Would open Rules Committee to TV coverage
	Representative Dunn	6/16, 14	Would open Rules Committee to TV coverage
	Representative Gunderson	6/16, 13	
	Schatz, Tom - Citizens Against Government Waste	6/29, 90	
	Senator Graham	5/13, 376	

Proposal: Create a Mechanism to Insure that Committee Procedures ...

**COMMITTEES:**  
**27. Create a Mechanism to Insure  
that Committee Procedures are Consistent with  
Chamber Rules**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Representative Gilman	5/13, 1020	

COMMITTEES:  
28. CRS Plans

CRS JURISDICTION PLAN	NAME OF WITNESS	PAGE #	COMMENTS
Plan F <sup>1</sup>	Representative Emerson	4/29, 170	
	Representative Hall, Tony	4/29, 169	
Plans G & H <sup>4</sup>	Davidson, Roger - Academic, University of Maryland	4/20, 60	
Plan K <sup>4</sup>	Mann, Thomas - The Brookings Institution	4/20, 61	
Plans K & M, and All Plans Generally <sup>4</sup>	Senator Rockefeller	4/27, 561-562	

<sup>1</sup> These witnesses referred to the plan letter(s) in their testimony.



Proposal: Miscellaneous Comments

## COMMITTEES:

### 29. Miscellaneous Comments

NAME OF WITNESS	MISCELLANEOUS COMMENTS
Representative Allard	Suggests a reform that Committees must meet a minimum Membership requirement or be dropped; 5/11, p. 336
Senator Harkin	Would encourage House and Senate Committees to meet prior to work on bills; 5/25, p. 148
Senator Murkowski	Against a proposed "Health Committee"; 4/27, p. 156

The Joint Committee on the Organization of Congress  
Database of Positional Statements

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## ISSUE AREA 3: COMMITTEES

### APPENDIX I: HOUSE COMMITTEES

List of References Concerning Significant Change  
to the Structure/Jurisdiction of House Committees

- |   |  |
|---|--|
| 1. Committee on Agriculture                         | 15. Committee on Post Office and Civil Service   |
| 2. Committee on Appropriations                      | 16. Committee on Public Works and Transportation |
| 3. Committee on Armed Services                      | 17. Committee on Rules                           |
| 4. Committee on Banking, Finance, and Urban Affairs | 18. Committee on Science, Space, and Technology  |
| 5. Committee on the Budget                          | 19. Committee on Select Intelligence             |
| 6. Committee on District of Columbia                | 20. Committee on Small Business                  |
| 7. Committee on Education and Labor                 | 21. Committee on Standards of Official Conduct   |
| 8. Committee on Energy and Commerce                 | 22. Committee on Veterans' Affairs               |
| 9. Committee on Foreign Affairs                     | 23. Committee on Ways and Means                  |
| 10. Committee on Government Operations              |  |
| 11. Committee on House Administration               |  |
| 12. Committee on the Judiciary                      |  |
| 13. Committee on Merchant Marine and Fisheries      |  |
| 14. Committee on Natural Resources                  |  |

## COMMITTEES: APPENDIX I HOUSE COMMITTEES

### COMMITTEE ON AGRICULTURE

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Broaden Jurisdiction	Mann, Thomas - The Brookings Institution	4/20, 502	
	Ornstein, Norman - American Enterprise Institute	4/20, 502	
	Representative de la Garza	5/11, 329	Include in post-reform Agriculture Committee's jurisdiction: Forestry, Food-Inspection, Consumer Nutrition, Human Nutrition, and Rural Housing
Keep	Representative Roberts	5/6, 844	
Eliminate	Representative Derrick	5/13, 390	

### COMMITTEE ON APPROPRIATIONS

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Merge	Representative Derrick	5/13, 388	Merge Budget, Ways & Means, and Appropriations into one Finance Committee
See Note	Representative Obey	4/22, 97	Would Merge Appropriations and Ways and Means and eliminate Budget
	Representative Rostenkowski	4/22, 97	Does not disagree with Obey's proposal to merge Ways and Means and Appropriations, and drop Budget, but thinks it would be unworkable

### COMMITTEE ON ARMED SERVICES

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Merge	Representative Glickman	4/22, 67	Merge with Foreign Affairs
See Note	Representative Dellums	5/3, 1063	Clarify jurisdiction to keep defense-related issues in Armed Services

## COMMITTEE ON BANKING, FINANCE, AND URBAN AFFAIRS

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Match with Senate	Representative Price	2/4, 4-5	
Change	Mann, Thomas - The Brookings Institution	4/20, 502	Could dismantle and give jurisdiction to Energy and Commerce, Foreign Affairs, and Education and Labor; or enhance jurisdiction to include trade and financial institutions, or international economic policy
	Ornstein, Norman - American Enterprise Institute	4/20, 502	Could dismantle and give jurisdiction to Energy and Commerce, Foreign Affairs, and Education and Labor; or enhance jurisdiction to include trade and financial institutions, or international economic policy

## COMMITTEE ON THE BUDGET

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Keep	Representative Natcher	3/11, 15	
Merge	Representative Derrick	5/13, 388	Merge Budget, Ways & Means, and Appropriations into one Finance Committee
Eliminate	Representative Obey	4/22, 97	Would Merge Appropriations and Ways and Means and eliminate Budget
See Note	Senator Kassebaum	3/16, 2	Would eliminate and replace with a Leadership Budget Committee

## COMMITTEE ON DISTRICT OF COLUMBIA

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Reduce	Representative Norton	4/20, 56	Would prefer to abolish Committee—believes it can be curtailed; however do not merge jurisdiction with another committee
Keep	Representative Conyers	6/24, 55	
Merge	Mann, Thomas, The Brookings Institution	2/16, 99	Merge with Committee on Government Operations
	Ornstein, Norman, American Enterprise Institute	2/16, 99	Merge with Committee on Government Operations
	Representative Glickman	4/22, 68	Merge with Committee on Government Operations

## COMMITTEE ON EDUCATION AND LABOR

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Broaden Jurisdiction	Mann, Thomas - The Brookings Institution	4/20, 502	Add unemployment compensation, family policy, and possibly housing
	Ornstein, Norman - American Enterprise Institute	4/20, 502	Add unemployment compensation, family policy, and possibly housing
See Note	Representative de la Garza	5/11, 334	Jurisdiction conflicts with Agriculture Committee

## COMMITTEE ON ENERGY AND COMMERCE

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
See Note	Representative Dingell	4/29, 186	Do not reduce jurisdiction of Energy and Commerce
	Representative Moorhead	5/11, 341	Do not reduce jurisdiction of Energy and Commerce



## COMMITTEE ON FOREIGN AFFAIRS

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Merge	Representative Glickman	4/22, 67	Merge with Armed Services

## COMMITTEE ON GOVERNMENT OPERATIONS

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
See Note	Representative Clinger	5/11, 370	Have joint oversight between two Chambers

## COMMITTEE ON HOUSE ADMINISTRATION

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Con Joint	Representative Rose	5/6, 295	
Merge	Representative Hyde	2/23, 26	Combine House Administration, Ethics, and Commission on Mailing
	Representative Meyers	4/22, 106	Merge with Joint Library and Joint Printing
See Note	Mann, Thomas - The Brookings Institution	4/20, 497	Possibly split responsibilities with Rules, or between Judiciary and the Director of Non-Legislative and financial Services; rotate panel Members every eight years
	Omstein, Norman - American Enterprise Institute	4/20, 497	Possibly split responsibilities with Rules, or between Judiciary and the Director of Non-Legislative and financial Services; rotate panel Members every eight years

## COMMITTEE ON THE JUDICIARY

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
No witnesses referred to this committee in their testimony.	_____	_____	_____

## COMMITTEE ON MERCHANT MARINE AND FISHERIES

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Eliminate	Mann, Thomas - The Brookings Institution	2/16, 99	
	Omstein, Norman - American Enterprise Institute	2/16, 99	
Keep	Representative Gilchrest	6/16, 26	
	Gutting, Jr., Richard - National Fisheries Institute	6/29, 87	
	Iudicello, Suzanne - Conservation and Fishing Community Negotiating Group	6/29, 617	
	Leape, Gerald - Greenpeace	6/29, 102	
	Magnuson, R. Gary - Center for Marine Conservation	6/29, 623	
	Marks, Beth - The Antarctica Project	6/29, 92	
	Palmer, Andrew - The Coast Alliance	6/29, 106	
	Representative Fields	5/13, 1056	
	Representative Pallone	6/16, 19	
	Representative Young, Don	5/13, 400	Eliminate Natural Resources before Merchant Marine and Fisheries
	Slade, David - Coastal States Organization	6/29, 92	
	Strickler, Karen - Endangered Species Coalition	6/29, 104	
	Van Note, Craig - Monitor	6/29, 105	

## COMMITTEE ON NATURAL RESOURCES

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
See note	Representative Young, Don	5/13, 400	Eliminate Natural Resources before Merchant Marine and Fisheries

## COMMITTEE ON POST OFFICE AND CIVIL SERVICE

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Keep	Horton, Frank - Former Representative	6/29, 84	
	Representative Clay	4/29, 211	
	Representative Myers	4/29, 213	
	Sackler, Arthur - Mailers Council	6/29, 98	
Merge	Mann, Thomas - The Brookings Institution	2/16, 99	Merge with Government Operations
	Ornstein, Norman - American Enterprise Institute	2/16, 99	Merge with Government Operations

## COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Broaden Jurisdiction	Mann, Thomas - The Brookings Institution	4/22, 501	Add railroads from Energy and Commerce
	Ornstein, Norm - American Enterprise Institute	4/22, 501	Add railroads from Energy and Commerce
	Representative Mineta	5/6, 304	Broaden jurisdiction to include all forms of transportation

## COMMITTEE ON RULES

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
No witnesses referred to this committee.	_____	_____	_____

## COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
No witnesses referred to this committee.	_____	_____	_____

## COMMITTEE ON SELECT INTELLIGENCE

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Con Joint	Ornstein, Norman - American Enterprise Institute	2/16, 46	Suggests Joint Intelligence Staff-like Joint Taxation
	Representative Glickman	4/22, 69	
	Senator Boren	4/29, 131	
	Senator Leahy	4/27, 128	
Pro Joint	Representative Hyde	2/23, 24	
See Note	Representative Combest	4/22, 79	Intelligence should also be bi-partisan, without a six-year term limit, and a Permanent Committee; 4/22, p. 85
	Representative Hamilton	4/22, 85	Opposes rotation of membership, which erodes expertise; would like Select Intelligence to be permanent committee

## COMMITTEE ON SMALL BUSINESS

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Eliminate	Mann, Thomas - The Brookings Institution	2/16, 99	
	Ornstein, Norman - American Enterprise Institute	2/16, 99	
Merge	Representative Combest	4/22, 87	Merge with Banking, Finance, and Urban Affairs Committee
	Representative Gonzalez	4/29, 229	Merge with Banking, Finance, and Urban Affairs Committee
Keep	Representative LaFalce	5/4, 239	
	Representative Meyers	4/22, 102-103	Keep and strengthen/broaden jurisdiction

## COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Merge	Representative Hyde	2/23, 26	Combine House Administration, Ethics, and Commission on Mailing
Keep	Representative McDermott	5/13, 1046	

## COMMITTEE ON VETERANS' AFFAIRS

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Eliminate	Mann, Thomas - The Brookings Institution	2/16, 99	
	Ornstein, Norman - American Enterprise Institute	2/16, 99	
Keep	Representative Montgomery	5/6, 286	



## COMMITTEE ON WAYS AND MEANS

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Merge	Representative Derrick	5/13, 388	Merge Budget, Ways & Means, and Appropriations into one Finance Committee
	Representative Meyers	4/22, 106	Merge with Joint Economic and Joint Taxation
See Note	Mann, Thomas, The Brookings Institution	4/20, 502	Give unemployment compensation jurisdiction to Education and Labor
	Ornstein, Norman, American Enterprise Institute	4/20, 502	Give unemployment compensation jurisdiction to Education and Labor
	Representative Obey	4/22, 97	Would Merge Appropriations and Ways and Means and drop Budget

The Joint Committee on the Organization of Congress  
Database of Positional Statements

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## ISSUE AREA 3: COMMITTEES

### APPENDIX II: SENATE COMMITTEES

#### List of References Concerning Significant Change to the Structure/Jurisdiction of Senate Committees

- |   |  |
|---|--|
| 1. Committee on Agriculture, Nutrition, and Forestry  | 11. Committee on Governmental Affairs      |
| 2. Committee on Appropriations                        | 12. Committee on the Judiciary             |
| 3. Committee on Armed Services                        | 13. Committee on Labor and Human Resources |
| 4. Committee on Banking, Housing, and Urban Affairs   | 14. Committee on Rules and Administration  |
| 5. Committee on the Budget                            | 15. Committee on Small Business            |
| 6. Committee on Commerce, Science, and Transportation | 16. Committee on Veterans' Affairs         |
| 7. Committee on Energy and Natural Resources          | 17. Select Committee on Ethics             |
| 8. Committee on Environment and Public Works          | 18. Select Committee on Indian Affairs     |
| 9. Committee on Finance                               | 19. Select Committee on Intelligence       |
| 10. Committee on Foreign Relations                    | 20. Special Committee on Aging             |
|   | 21. Miscellaneous Comments                 |

# COMMITTEES: APPENDIX II SENATE COMMITTEES

## COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Eliminate overlapping jurisdiction	Senator Leahy	4/27, 123-125	Consolidate agricultural issues into Agriculture Committee

## COMMITTEE ON APPROPRIATIONS

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
No witness referred to this committee	_____	---	-----

## COMMITTEE ON ARMED SERVICES

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
No witness referred to this committee	_____	---	-----

## COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Eliminate conflict with Agriculture	Senator Leahy	4/27, 125	
Eliminate conflict with Veteran's Affairs	Senator Rockefeller	4/27, 563	Veterans' Affairs to obtain by rule jurisdiction over veterans housing currently residing in Veterans' Affairs by practice

## COMMITTEE ON THE BUDGET

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Keep	Representative Natcher	3/11, 15	
See Note	Senator Kassebaum	3/16, 2	Replace with Leadership Budget Committee

## COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Eliminate overlap with Agriculture	Senator Leahy	4/27, 124	Consolidate food inspection and food safety

## COMMITTEE ON ENERGY AND NATURAL RESOURCES

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Eliminate overlap with Agriculture	Senator Leahy	4/27, 124	

## COMMITTEE ON THE ENVIRONMENT AND PUBLIC WORKS

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
No witness referred to this committee	_____	---	_____

## COMMITTEE ON FINANCE

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
No witness referred to this committee	_____	---	_____

## COMMITTEE ON FOREIGN RELATIONS

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Broaden jurisdiction	Mann, Thomas - Brookings Institution	4/20, 502	Move international economics/trade from Finance to Foreign Relations
	Ornstein, Norman - American Enterprise Institution	4/20, 502	Move international economics/trade from Finance to Foreign Relations

## COMMITTEE ON GOVERNMENT AFFAIRS

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
No witness referred to this committee	_____	---	_____



## COMMITTEE ON THE JUDICIARY

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
No witness referred to this committee	-----	---	-----

## COMMITTEE ON LABOR AND HUMAN RESOURCES

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Eliminate overlap with Agriculture	Senator Leahy	4/27, 124	Consolidate food safety into Agriculture

## COMMITTEE ON RULES AND ADMINISTRATION

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
No witness referred to this committee	-----	---	-----

## COMMITTEE ON SMALL BUSINESS

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Eliminate	Mann, Thomas - Brookings Institution	4/22, 497	
	Ornstein, Norman - American Enterprise Institute	4/22, 497	
	Senator Dole	1/26, 126	

## COMMITTEE ON VETERANS' AFFAIRS

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Eliminate	Mann, Thomas - Brookings Institution	4/22, 497	
	Ornstein, Norman - American Enterprise Institute	4/22, 497	
Keep	Senator Murkowski	4/27, 138	
	Senator Rockefeller	4/27, 141-2	

## SELECT COMMITTEE ON ETHICS

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
No witness referred to this committee	_____	—	_____

## SELECT COMMITTEE ON INDIAN AFFAIRS

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Eliminate	Mann, Thomas - Brookings Institution	4/20, 495	
	Ornstein, Norman - American Enterprise Institute	4/20, 495	
	Senator Dole	1/26, 126	
Keep	Abourezk, James - Former Senator	5/13, 1071	
	Senator Inouye	5/4, 255-257	Would support transfer to a subcommittee if jurisdiction mirrored Indian Affairs Committee jurisdiction, p. 263
	Senator McCain	5/4, 259	

## SELECT COMMITTEE ON INTELLIGENCE

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against Joint Committee	Ornstein, Norman - American Enterprise Institute	2/16, 46	Suggests Joint Intelligence staff, like Joint Tax uses
	Senator Boren	4/29, 131	
	Senator Deconcini	5/13, 407	Also does not want Intelligence merged with Armed Services, p. 411
	Senator Leahy	4/27, 128	Chairman and Vice Chairman serving on Intelligence Committees should be excused from other committee duties, keeping seniority
Keep	Senator Murkowski	4/27, 140	Align House and Senate Intelligence jurisdiction
For Joint Committee	Representative Hyde	2/23, 24	
	Senator Graham	5/13, 382	Opposes merging Intelligence and Armed Services
See Note	Senator Lugar	4/22, 83-4	Opposes rotation of membership, which erodes continuity and expertise in complex subject

## SPECIAL COMMITTEE ON AGING

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Eliminate	Mann, Thomas - Brookings Institution	2/16, 99	
	Ornstein, Norman - American Enterprise Institute	2/16, 99	
	Senator Dole	1/26, 126	
Keep	Senator Cohen	5/11, 352	
	Senator Pryor	5/11, 347-8	

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## ISSUE AREA 3: COMMITTEES

### APPENDIX III: JOINT COMMITTEES

#### List of References Concerning Significant Change to the Structure/Jurisdiction of Joint Committees

1. Joint Economic Committee
2. Joint Committee on the Library of Congress
3. Joint Committee on Printing
4. Joint Committee on Taxation
5. (Proposed) Joint Committee on Intelligence

## COMMITTEES: APPENDIX III

### JOINT COMMITTEES

#### JOINT ECONOMIC COMMITTEE

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Merge with Ways and Means	Representative Meyers	4/22, 106	Merge Ways and Means, Joint Tax, and Joint Economic Committees

#### JOINT COMMITTEE ON THE LIBRARY OF CONGRESS

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Create Joint Committee on Legislative Agencies	Representative Roberts	5/6, 845	
Merge with House Administration	Representative Meyers	4/22, 106	Merge House Administration, Joint Printing, and Joint Library Committees



## JOINT COMMITTEE ON PRINTING

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Eliminate	Ornstein, Norman - American Enterprise Institute	2/16, 45	Separate executive & legislative branch printing; move towards reforming and modernizing printing as the private sector does
Create Joint Committee on Legislative Agencies	Representative Roberts	5/6, 845	
Merge with House Administration	Representative Meyers	4/22, 106	Merge House Administration, Joint Printing, & Joint Library Committees

## JOINT COMMITTEE ON TAXATION

POSITION	NAME OF WITNESS	PAGE	COMMENTS
Merge with Ways and Means	Representative Meyers	4/22, 106	Merge Ways and Means, Joint Tax, & Joint Economic Committees
Eliminate	Mann, Thomas - Brookings Institution	4/20, 500	Preserve staff by creating a Congressional Reserve Office parallel with the Congressional Budget Office or subsume by CBO
	Ornstein, Norman - American Enterprise Institute	2/16, 45-6	

## (PROPOSED) JOINT COMMITTEE ON INTELLIGENCE

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Mann, Thomas - Brookings Institution	4/20, 498	
	Ornstein, Norman - American Enterprise Institute	2/16, 46	
	Representative Combest	4/22, 82	
	Representative Glickman	4/22, 69	
	Senator DeConcini	5/13, 407	
	Senator Leahy	4/27, 128	
For	Representative Gekas	5/13, 1119	
	Representative Hyde	5/6, 313	
	Representative Shuster	5/6, 310	
	Senator Graham	5/13, 382	
	Senator Pell	5/13, 1049	Or fold Intelligence into Foreign Relations

**MEMBERS WITH PROPOSALS TO REFORM THE COMMITTEE SYSTEM,  
102ND AND 103RD CONGRESSES<sup>1</sup>**

**BY MEMBER**

Armey: omnibus reform measure, in part imposes term limits on committee members and chairs, and equates party ratios on committees with the House party ratio (H.Res. 421, 102nd).

Bacchus/Zimmer: further restricting the closing of committee meetings and hearings (H.Res. 310, 102nd).

Baker (LA): require small business, private sector, and state and local government impact statements (presumably in certain committee reports) (H.R. 1088, 103rd).

Bartlett: limit the number of committee staff (H.Res. 11, 103rd).

Bond: limit the number of Senate committee staff (S.Res. 327, 102nd).

Boren: expand the authority of the Senate Select Committee on Intelligence (S. 2198, 102nd).

Chafee: limit the number of committee staff authorized to each Senate committee (amendment no. 20 to S. Res. 62, 102nd Congress).

Fawell: omnibus reform measure, in part imposes term limits on committee service (H.R. 4224, 102nd).

Gekas/Hyde: create a Joint Intelligence Committee (H.J.Res. 268, 102nd).

Grassley: impose term limits on committee service (S.Res. 261, 102nd).

Harkin: require prevention impact statements in certain committee reports (S. 504, 102nd).

Hefley: omnibus reform measure; in part reduces the numbers of

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<sup>1</sup> This list includes (current) Members with proposals introduced in the 102nd or 103rd Congresses, through March 10, 1993. Where a Member introduced a proposal in both the 103rd and 102nd Congresses, only the 103rd Congress proposal is noted. In a few cases relevant Senate amendments also are included, although no systematic attempt was made to identify Senate and House amendments on point. Finally, the information is organized in two ways: first, alphabetically by Member, and second, by subject.

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committees, subcommittees, and their staffs; equates the party ratio on House committees with the House party ratio; and bans proxy voting (H.Res. 502, 102nd).

Hefley: include state and local government cost estimates in committee reports (H.R. 894, 103rd).

Heflin: require in committee reports, financial impact statements on state and local governments (S.Res. 69, 103rd).

Inouye: remove select from title of Indian Affairs Committee (S.Res. 67, 103rd).

Kanjorski: create a Select Committee to Investigate Financial Institution Fraud, Mismanagement, Oversight, and Supervision (H.Res. 25, 102nd).

Kassebaum/Inouye: revamp the Senate committee system (S.Res. 13, 103rd).

McCain: require impact on Congress statement in committee reports (amendment no. 1293 to S. 1745, 102nd).

McCurdy: to require election of chairs and ranking minority members (H.Res. 311, 102nd).

Michel: omnibus reform measure, including provisions "to restore the committee system" (H.Res. 36, 103rd Congress).

Owens: impose term limits for committee chairs (H.Res. 312 102nd).

Paxon: create a standing Committee on Narcotics Abuse and Control (H.Res. 80, 102nd).

Paxon: require a CBO analysis of the job loss or gain resulting from each reported bill (H.R. 909, 103rd).

Saxton: require economic impact statements in certain committee reports (H.Res. 315, 102nd).

Shaw: impose term limits on committee service (H.Res. 49, 103rd).

Shays: expand state and local government cost estimate requirements (H.R. 1006, 103rd).

Shuster: reduce the size of the Intelligence Committee (H.Res. 125, 102nd). Also, require Intelligence Committee members and staff to take a secrecy oath (H.Res. 83, 102nd).

Snowe: limit committee size to 25 members and prohibit Members from serving on more than one standing committee (H.Res. 89, 103rd Congress).

Solomon: create a Joint Intelligence Committee (H.J.Res. 48, 103rd).

Solomon: create a standing Committee on Drug Abuse and Control (H.Res. 52, 102nd).

Solomon: prevent Intelligence Committee members and staff from making unauthorized disclosures (H.R. 935, 102nd).

Stokes: create a Select Committee on Violence (H.Res. 390, 102nd).

Taylor (NC): equate House committee/subcommittee party ratios with the chamber party ratio (H.J.Res. 522, 102nd).

Wallop: include statements on the impact on employment and international competitiveness, in certain committee reports (S.Con.Res. 7, 103rd).

Weldon: require Ways and Means to include in committee reports certain information on single taxpayer relief provisions of legislation (H.Res. 116, 103rd).

Weldon: establish a Select Committee on Disaster Preparedness and Response (H.Res. 42, 103rd).

#### BY SUBJECT

##### *Comprehensive Reform*

Kassebaum/Inouye: revamp the Senate committee system (S.Res. 13, 103rd).

Michel: omnibus reform measure, including provisions "to restore the committee system" (H.Res. 36, 103rd Congress).

##### *Content of Committee Reports*

Baker (LA): require small business, private sector, and state and local government impact statements (presumably in certain committee reports) (H.R. 1088, 103rd).

Harkin: require prevention impact statements in certain committee reports (S. 504, 102nd).



Hefley: include state and local government cost estimates in committee reports (H.R. 894, 103rd).

Heflin: require in committee reports, financial impact statements on state and local governments (S.Res. 69, 103rd).

McCain: require impact on Congress statement in committee reports (amendment no. 1293 to S. 1745, 102nd).

Paxon: require a CBO analysis of the job loss or gain resulting from each reported bill (H.R. 909, 103rd).

Saxton: require economic impact statements in certain committee reports (H.Res. 315, 102nd).

Shays: expand state and local government cost estimate requirements (H.R. 1006, 103rd).

Wallop: include statements on the impact on employment and international competitiveness, in certain committee reports (S.Con.Res 7, 103rd).

Weldon: require Ways and Means to include in committee reports certain information on single taxpayer relief provisions of legislation (H.Res. 116, 103rd).

#### *Create a Committee*

Gekas/Hyde: create a Joint Intelligence Committee (H.J.Res. 268, 102nd).

Inouye: remove select from title of Indian Affairs Committee (S.Res. 67, 103rd).

Kanjorski: create a Select Committee to Investigate Financial Institution Fraud, Mismanagement, Oversight, and Supervision (H.Res. 25, 102nd).

Paxon: create a standing Committee on Narcotics Abuse and Control (H.Res. 80, 102nd).

Solomon: create a Joint Intelligence Committee (H.J.Res. 48, 103rd).

Solomon: create a standing Committee on Drug Abuse and Control (H.Res. 52, 102nd).

Stokes: create a Select Committee on Violence (H.Res 390, 102nd).

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Weldon: establish a Select Committee on Disaster Preparedness and Response (H.Res. 42, 103rd).

#### *Intelligence Committee*

Boren: expand the authority of the Senate Select Committee on Intelligence (S. 2198, 102nd).

Gekas/Hyde: create a Joint Intelligence Committee (H.J.Res. 268, 102nd).

Shuster: reduce the size of the Intelligence Committee (H.Res. 125, 102nd). Also, require Intelligence Committee members and staff to take a secrecy oath (H.Res. 83, 102nd).

Solomon: create a Joint Intelligence Committee (H.J.Res. 48, 103rd).

Solomon: prevent Intelligence Committee members and staff from making unauthorized disclosures (H.R. 935, 102nd).

#### *Leadership of Committees*

McCurdy: to require election of chairs and ranking minority members (H.Res. 311, 102nd).

#### *Open Meetings/Hearings*

Bacchus/Zimmer: further restricting the closing of committee meetings and hearings (H.Res. 310, 102nd).

#### *Proxy Voting*

Hefley: omnibus reform measure; in part reduces the numbers of committees, subcommittees, and their staffs; equates the party ratio on House committees with the House party ratio; and bans proxy voting (H.Res. 502, 102nd).

#### *Ratios on Committees/Subcommittees*

Armey: omnibus reform measure, in part imposes term limits on committee members and chairs, and equates party ratios on committees with the House party ratio (H.Res. 421, 102nd).

Hefley: omnibus reform measure; in part reduces the numbers of committees, subcommittees, and their staffs; equates the party

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ratio on House committees with the House party ratio; and bans proxy voting (H.Res. 502, 102nd).

Taylor (NC): equate House committee/subcommittee party ratios with the chamber party ratio (H.J.Res. 522, 102nd).

#### *Reduce Committees/Subcommittees*

Hefley: omnibus reform measure; in part reduces the numbers of committees, subcommittees, and their staffs; equates the party ratio on House committees with the House party ratio; and bans proxy voting (H.Res. 502, 102nd).

#### *Sizes and Assignments*

Snowe: limit committee size to 25 members and prohibit Members from serving on more than one standing committee (H.Res. 89, 103rd Congress).

#### *Staff (Committee specific)*

Bartlett: limit the number of committee staff (H.Res. 11, 103rd).

Bond: limit the number of Senate committee staff (S.Res. 327, 102nd).

Chafee: limit the number of committee staff authorized to each Senate committee (amendment no. 20 to S. Res. 62, 102nd Congress).

Hefley: omnibus reform measure; in part reduces the numbers of committees, subcommittees, and their staffs; equates the party ratio on House committees with the House party ratio; and bans proxy voting (H.Res. 502, 102nd).

#### *Term Limits on Committee Members or Leaders*

Arney: omnibus reform measure, in part imposes term limits on committee members and chairs, and equates party ratios on committees with the House party ratio (H.Res. 421, 102nd).

Fawell: omnibus reform measure, in part imposes term limits on committee service (H.R. 4224, 102nd).

Grassley: impose term limits on committee service (S.Res. 261, 102nd).

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Owens: impose term limits for committee chairs (H.Res. 312 102nd).

Shaw: impose term limits on committee service (H.Res. 49, 103rd).

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SOURCE: Information was derived from the legislative files ("C102" and "C103") of the Library of Congress's SCORPIO computerized database, on March 11, 1993.

**COMMITTEE STRUCTURE**

**POST HEARING QUESTIONS**



## Questions for Committee Leaders Testifying on the Committee System

### Numbers and Assignments

1. The concern that there are too many committees and subcommittees, that they are too large, and that Members have too many assignments is often expressed. Currently there are some 266 total committees and subcommittees. The average House standing committee has 39 members while Senate standing committees average 18 Members. Senators average 11-12 committee and subcommittee assignments, and Representatives average 7 assignments. Also, many Members request and receive waivers of the assignment limitations.

Should the total number of committees and subcommittees be reduced, and what should be the maximum number of subcommittees each committee can create? Also, what is the optimal number of assignments per Representative/Senator, and what can be done to prevent waivers of assignment limitations?

### Scheduling Conflicts

2. This Committee is examining the age-old problem of scheduling conflicts of Members and the frustrations and problems this causes. Many Members are burdened by overlapping committee meetings and committee and floor sessions. The computerized scheduling systems in the House and Senate have not significantly minimized meeting overlaps.

What can be done to decrease scheduling conflicts? For example, would it be feasible to prohibit committees from meeting when the chambers are in session, without exception? Or, would it work to allow some committees to meet on certain days, and the other committees to meet on different days?

### Jurisdictions

3. We have heard a number of charges that jurisdictions are overlapping and fragmented. In some policy areas, such as health, trade, and energy, dozens of committees and subcommittees share jurisdiction. As a result, both chambers employ a variety of mechanisms to address issues that cut across jurisdictions, including multiple referrals, select and ad hoc committees, and task forces.

Which policy issues within your committee's jurisdiction overlap with those of other committees? Also, what is your opinion of multiple referrals and the other mechanisms used to deal with cross-cutting issues?

### Procedures

4. We have been studying the range of procedural reforms that may enhance committee deliberations. Procedural issues include proxy voting and quorum requirements, including the rolling quorum; improving the quality of information gathering; the adequacy of committee reports; and whether there should be more uniformity in committee procedures.

What procedural changes would improve policy making in committees?

### Staffing and Funding

5. There are a number of proposals to reduce total committee staffing from approximately 3,500 to a lower level. But, while some committees may be overstaffed and have excessive budgets, others may lack sufficient resources. Also, committees differ as to how they divide their funds between the full committee and its subcommittees, between committee leaders and rank and file members, and between majority and minority party members.

Should committee staff levels be reduced, and if so, how? Also, how should a committee's staff and funds be divided?

WENDELL H. FORD, KENTUCKY, CHAIRMAN

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ALBERT L. MCDERMOTT, REPUBLICAN STAFF DIRECTOR

United States Senate

COMMITTEE ON  
RULES AND ADMINISTRATION  
WASHINGTON, DC 20510-6325

SENATOR BOREN  
WASHINGTON, DC  
JUN 16 PM 5:25

June 14, 1993

The Honorable David L. Boren  
The Honorable Lee Hamilton  
Co-Chairmen  
Joint Committee on the Organization of Congress  
Congress of the United States  
Washington, D.C. 20515

Dear David and Lee:

Thank you for the recent correspondence which you and Senator Domenici and Congressman Dreier sent me regarding committee structure. My responses to the questions you asked are as follows:

1. I believe that membership should be limited to two "A" committees and one "B" committee. Thus, there should be about 200 "A" slots and 100 "B" slots.

The current number and size of committees, proposed by the Stevenson Committee, is not out of line. The excessive membership results from exceptions. The solution is for members to accept assignments on the basis of the Standing Rules. Exceptions require unanimous consent. Any member can object to waiving the Rules.

I do not believe that current policy on subcommittees in the Senate has resulted in an excessive number.

2. Scheduling conflicts can be resolved in the following ways: setting aside the morning or afternoon for committee work, the other for a floor session; requiring committees to establish a schedule for meetings; and requiring committees to comply with the computerized scheduling unless conflicts are not involved.

The establishment of a mandate that no committees may meet when the Senate is in session would be too rigid. Unless a fixed schedule is set for floor sessions, it would be a great inconvenience to witnesses.

June 14, 1993

3. The Rules Committee has few problems with overlapping jurisdictions. Rules of the budget are the most obvious.

Without a germaneness rule in the Senate, there is little need for multiple referrals. There will be exceptions, but as a general rule such practice can slow the legislative process and encourage conflict.

Current problems should be studied. Conflict can be minimized by realigning committee jurisdiction where overlaps occur.

4. Senate Rules and committee rules adopted thereunder are reasonable.

Proxies cannot be counted in reporting legislation, and the presence of a quorum is required. Rolling quorums would be helpful and would certainly expedite the conduct of business.

I do not see great value in attaining uniformity in committee procedures. The more important need is awareness. Each Senate committee is required to publish its rules of procedure in the Congressional Record at the beginning of each Congress. The various committee rules are then compiled and printed as a Senate document.

5. The question on staffing and funding is misleading. The number (3,500) mentioned in the questionnaire is a combined House/Senate figure. Committee staffing for the Senate in 1993 is less than it was in 1980. Some realignment would seem to be justified, but the aggregate is about right.

If committees are to serve their intended purpose, a competent and qualified staff is essential. Otherwise, the committees will rely heavily on the executive branch and special interest groups for information. This practice would serve neither the Senate nor the public interest well.

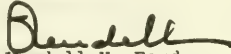
The Standing Rules provide for a two-thirds to one-third allocation. The Senate Rules Committee has followed the practice of allocating designated funds on the ratio of Democratic/Republican seats. Our experience with this procedure has worked well.

- 3 -

June 14, 1993

I am pleased to provide my views on committee structure to the Joint Committee. If you are in need of any additional information, please don't hesitate to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "Wendell", with a stylized flourish extending from the end.

Wendell H. Ford  
Chairman



*John Glenn*

Senator John Glenn  
Chairman, Committee on Governmental Affairs

Responses to Questions on the Committee System  
submitted to  
Joint Committee on the Organization of Congress

1. Should the total number of committees and subcommittees be reduced, and what should be the maximum number of subcommittees each committee can create? Also, what is the optimal number of assignments per Representative/Senator?

Besides reducing redundancy and streamlining jurisdictions, trimming the number of committees and subcommittees also will ease the burden on members who must serve on an excessive number of committees. Many of my colleagues share the frustration I often feel of being pulled in too many directions. Few of us can be truly informed and fully effective in all of these areas, and for all of the committees, to which we currently are committed. Another way to deal with overlapping committees is for us to get away from the notion that all new Senators should expect to get a subcommittee chairmanship -- especially if we are to concentrate our efforts on the issues that matter most. Thus, I would recommend that we reformulate and reduce our Congressional committees, and that we mainly do this by restructuring along functional lines of the government's role in society. It is high time that we simplify for improved efficiency and effectiveness, and we can do this by curtailing the number of committees and subcommittees, which in turn will reduce overlap and enhance our focus. I think it makes sense to have five major committees, with a limited number of subcommittees, that can more adequately focus on the functions of government and society. Having five committees structured by function will also allow the Senate leadership more control in formulating and moving legislation, and would permit the Majority Leader a sort of legislative cabinet to help oversee a functional approach to government. I would propose that we create committees to focus on human resources, natural resources, national defense, economic affairs and international relations, with perhaps a sixth committee on rules and administration to handle such matters as the federal civil service which don't conform to the other categories. And although the Executive Branch may not immediately align itself in a parallel manner, I do think that over time, the agencies of government will recognize that a more streamlined organization will improve services to the public and reduce wasteful spending.

2. What can be done to decrease scheduling conflicts? For example, would it be feasible to prohibit committees from

meeting when the chambers are in session, without exception? Or, would it work to allow some committees to meet on certain days, and the other committees to meet on different days?

By reducing the number of committees, as outlined in my response to the previous question, it follows that Members of Congress will have fewer committee assignments; as a result, scheduling conflicts would be greatly reduced.

3. Which policy issues within your committee's jurisdiction overlap with those of other committees? Also, what is your opinion of multiple referrals and the other mechanisms used to deal with cross-cutting issues?

The Senate provided the Committee on Governmental Affairs a broad jurisdiction specifically to oversee the cross-cutting issue of government: among other things, financial management, procurement, information management, contract management, civil service issues and the general management of the Federal government. Thus, to one degree or another, the committee's jurisdiction overlaps with the jurisdiction of most other standing committees. Despite this prospect for overlap, however, a committee with cross-cutting jurisdiction is desirable in order to focus on those concerns such as the creation of inspectors general or chief financial officers that other committees with more narrow jurisdictions are unlikely to pursue.

Although there is some delay inherent in providing multiple referrals on legislation to committees, I would rather see such deliberations take place within the committee system than create more bottlenecks on the floor because major differences remain unresolved. Under my proposal to create fewer committees with broad subject matters, fewer multiple referral or other such measures would be necessary.

4. What procedural changes would improve policy making in committees?

I have no specific comments on procedural changes, but policy making could be greatly enhanced by spending more time on oversight. In a recent hearing of the Governmental Affairs Committee, Comptroller General Charles Bowsher was asked to name a government agency which he believed to be well managed. He hesitated for a few moments, said he could not think of any, and then said that the Army had at least made some management improvements. This is a terrible state of affairs; we can no longer afford to ignore how agencies are managed. Too often, our committees spend their efforts exclusively on specific program activities within their jurisdictions while rarely considering the larger management considerations that can mean the success and failure of programs. Issues of waste, fraud and abuse, financial management improvements, providing

reliable and timely program information through better information systems, insisting on effective and complete resolution of audit findings, ensuring adequate capacity, oversight and resources for agencies to accomplish their missions, strengthening contract management, focusing on agency outcomes instead of outputs -- all of these issues are critical to program effectiveness and to the accountability of government in spending taxdollars.

Also, let me mention the importance of biennial budgeting to governmental reform. I don't need to remind my colleagues how complicated the budgeting process has become, and how much more time we spend on it than we did in the past -- time that could be better spend on oversight and policy deliberation. Biennial budgeting would help free up the Congress to spend more time in the off-years actually overseeing programs and helping to ensure the effective management of agencies. The Executive Branch also would clearly benefit from a more stable budget environment in which program managers could more effectively plan and utilize their resources.

5. Should committee staff levels be reduced, and if so, how? Also, how should a committee's staff and funds be divided?

Congress must continue to do its part to eliminate waste and reduce the burden of government on the American people. A committee system in which fewer full committees and subcommittees exist will necessitate fewer committee staff which, in turn, would help the Congress to reduce its budget.

The Committee on Governmental Affairs has maintained an equitable distribution of resources. The majority currently holds eight seats on the committee and the minority holds five seats. Funds are divided roughly two-thirds for the majority and one third for the minority, with few restrictions on the spending of that allotment. I believe this is a fair approach to funding committees and would urge that it be maintained.

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## United States Senate

COMMITTEE ON SMALL BUSINESS

WASHINGTON, DC 20510-6350

July 1, 1993

The Honorable David L. Boren, Co-Chairman  
 The Honorable Lee Hamilton, Co-Chairman  
 The Honorable Pete V. Domenici, Vice Chairman  
 The Honorable David Dreier, Vice Chairman  
 Joint Committee on the Organization of Congress  
 The Congress of the United States  
 Washington, D.C. 20515-6775

Dear Messrs. Chairmen and Vice Chairmen:

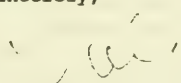
Thank you for the opportunity to testify before the Joint Committee on the Organization of Congress. I hope the enclosed, somewhat tardy answers to your post-hearing questions are still sufficiently timely to be useful.

It goes without saying that your committee has a daunting task, but one which many of us feel is crucial. The problems facing both Houses seem at times to be almost overwhelming, and I thank each of you for the efforts you have made to improve our working environment and our system of government.

Each of us, had we unlimited powers, could change the House and Senate in ways that would make the bodies more effective and efficient. Unhappily, or perhaps fortunately, we do not have that option.

Again, thank you for the opportunity to testify and best of luck in the completion of your work.

Sincerely,

  
 Dale Bumpers  
 Chairman

DB/jwbr

Enclosure



Committee on Small Business  
United States Senate

Members and Assignments

1. Q. Should the total number of committees and subcommittees be reduced, and what should be the maximum number of subcommittees each committee can create? Also what is the optimal number of assignments per Representative/Senator, and what can be done to prevent waivers of assignment limitations?

A. I agree, as probably every member does in the abstract, that both Senators and Representatives--and especially Senators--have too many committee and subcommittee assignments. I often feel that I have too many assignments, yet there are none which I would readily relinquish. I have never asked for a waiver, and I cannot see how any Senator can give serious attention to the work of more than three full committees.

As to the number of subcommittees per committee, there is great variation in the work done by different Committees. When I became Chairman of the Small Business Committee in 1987, we reduced the number of subcommittees from 7 to 6. Frankly, we could probably get by with less, especially since our subcommittees have no staff other than the full committee staff. Following the precedent of former Chairman Weicker, I have freely granted members the opportunity to chair hearings, so nothing more than letterhead would be lost by eliminating our subcommittees. However, the subcommittee chairs might have a different view.

It seems to me that all except perhaps the Appropriations Committee should be able to make do with not more than four or five subcommittees at most. I also tend to believe that many of our Committees are too large. With some reluctance, I acceded to the Majority Leader's request to enlarge the Small Business Committee at the beginning of this Congress to accommodate a large number of requests to join the Committee. Most of these requests came from the Democratic side, and each of these new members has proved to be an excellent addition. I have found the interest shown by our members to be substantially improved this year in terms of attendance and participation in hearings.

Scheduling Conflicts

2. Q. What can be done to decrease scheduling conflicts? For example, would it be feasible to prohibit committees from meeting when the chambers are in session, without exception? Or, would it work to allow some committees to meet on certain days, and the other committees to meet on different days?



A. Scheduling seems to be a gordian knot. Obviously, a significant reduction in the number of committees or subcommittees and a reduction in the membership of each would reduce the number of likely conflicts on a given day. My staff on the Small Business Committee often finds that they are at the mercy of the various Appropriations subcommittees in scheduling hearings. Perhaps even the Appropriations Committee could reduce the number of its subcommittees since, in effect, it constitutes thirteen committees by itself.

I do not believe it would be feasible to prohibit committees from meeting during floor sessions, though the rules might be followed more closely regarding time limitations on meeting after the Senate convenes. A more predictable floor schedule, such as knowing that the Senate will convene at 9:30 and morning business will be held for the first hour or more, would help avoid conflicts with the Committees' work. If we knew that Senators would be available for hearings on Mondays or Fridays, that would also simplify matters.

Moreover, I have noted that Senators often have little regard for the morning business period in that they frequently interrupt legislative business to introduce bills or make morning business speeches.

### Jurisdictions

3. Q. Which policy issues within your committee's jurisdiction overlap with those of other committees? Also, what is your opinion of multiple referrals and the other mechanisms used to deal with cross-cutting issues?

A. Fortunately, the Small Business Committee's jurisdiction does not overlap with any other Senate Committees. However, in accord with our duties under the Senate rule to investigate the problems facing small businesses and report from time to time thereon, we do have strong interest in bills considered by many other committees. Not infrequently, we hold hearings on issues which are being considered in other committees. In that sense, many policy issues overlap between our Committee and the Committees on Finance, Commerce, Banking and Labor, since most major bills written by these Committees have substantial effects on small business. Although we do not have joint referral of bills in the technical sense, we can and will continue to hold hearings and come to our own judgments where the interests of small business are at stake.

As to joint or sequential referrals, I frankly find the House's system of overlapping jurisdictions and multiple referrals to be immensely frustrating and often at odds with good government. While there are sometimes bills in the Senate which I feel should be sequentially referred to the Small Business Committee because

of their broad impact, I am hesitant to formally make such a request because it simply delays the legislative process. I never cease to be amazed at the lengths to which House members and staff will go to protect their Committees' jurisdictions, even when the legislation in question seems to have universal support.

#### Procedures

4. Q. What procedural changes would improve policy making in committees?

A. Like many Committees, the Small Business Committee sometimes has difficulty in strictly observing the Senate Rule regarding the presence of a live quorum for the reporting of nominations. We have in some instances allowed the use of the "rolling quorum", and there seems to be no objection of this practice. At least for nominations, perhaps it should be formally permitted under the rules. In the alternative, we might consider polling out nominations. Personally, I do not object to Senators' use of proxies in Committees, though the practice should be tightly controlled to ensure that staff are not acting without authorization from their Senators.

#### Staffing and Funding

5. Q. Should committee staff levels be reduced, and if so, how? Also, how should a committee's staff and funds be divided?

A. Like most members, I tend to believe that everyone else's staff should be reduced so long as my staff is not affected. Quite seriously, I must point out that the Senate Small Business Committee has the smallest budget of any Senate Committee, including even the non-legislative committees. Moreover, our Committee has 21 members and holds a large number of hearings. We have gone from 18 to 21 members in the last four years with no increase in staff. Additionally, we processed four significant pieces of legislation last year, all of which were approved by President Bush.

With equal seriousness, many Committees in both the House and Senate seem to me to be bloated. Some committees obviously offer staff slots to Senators as inducements to join the Committee. We do not do that on the Small Business Committee both because we do not have the staff to do so and because we have no shortage of Senators wanting to serve. I frankly do not see how any chairman or staff director can effectively manage a staff of more than 100, as some Committees have.

As a very modest proposal, perhaps Committees should not be able to offer more than one staff member to assist any Committee

member who is not chairman or ranking minority member of either the full committee or a subcommittee.

Additionally, I believe the Joint Committee should closely scrutinize the many legislative and supporting bureaucracies which have been created over the years--the so-called legislative service organizations, the Architect's office, CRS, GAO and all the rest. I am inclined to believe that more so-called fat exists in these large organizations which are virtually invisible rather than in committee staff budgets.

J. BENNETT JOHNSTON, Louisiana, Chairman

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 ARLEN SPECTER, Pennsylvania  
 TRENT LOTT, Mississippi

# United States Senate

COMMITTEE ON  
 ENERGY AND NATURAL RESOURCES

WASHINGTON, DC 20510-6150

June 23, 1993

The Honorable David L. Boren  
 Co-Chairman  
 Joint Committee on the Organization of Congress  
 Room 175D Ford House Office Building  
 Washington, D.C. 20515-6775

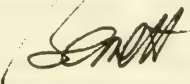
Dear Mr. Chairman:

I am enclosing my responses to your questions on the committee system.

I have not addressed every subpart of every question. My answers reflect my own experience in the Senate and, in particular, my perspective as Chairman of the Committee on Energy and Natural Resources. I have not attempted to express an opinion on conditions in the House of Representatives or in other committees.

Thank you for giving me this opportunity to contribute to your committee's important work.

Sincerely,



J. Bennett Johnston  
 Chairman

Enclosure

cc: Representative Lee Hamilton  
 Co-Chairman

Senator Pete V. Domenici  
 Vice Chairman

Representative David Dreier  
 Vice Chairman

## SENATOR J. BENNETT JOHNSTON

## Response to Questions on the Committee System

Numbers and Assignments

1. Should the total number of committees and subcommittees be reduced, and what should be the maximum number of subcommittees each committee can create? Also, what is the optimal number of assignments per Representative/Senator, and what can be done to prevent waivers of assignment limitations?

I do not view the number of committees and subcommittees in the Senate as a problem. The Committee on Energy and Natural Resources has five subcommittees, which are employed only for holding hearings. All legislation is marked up at the full committee, thus avoiding the proliferation of meetings that would result from separate mark-ups at both the subcommittee and full committee levels.

Rule XXV of the Senate Rules already provides a sensible limit on the number of committees and subcommittees on which Senators may serve. Those limits are often waived because Senators want to serve on additional committees and the waivers serve the interests of the Senate. I do not believe new rules are needed to further restrict the number of committee assignments or to eliminate waivers.

Scheduling Conflicts

2. What can be done to decrease scheduling conflicts? For example, would it be feasible to prohibit committees from meeting when the chambers are in session, without exception? Or, would it work to allow some committees to meet on certain days, and the other committees to meet on different days?

While scheduling conflicts are annoying, they need not pose a serious problem to the operation of the Senate. Scheduling conflicts between committees are inevitable, but most Senators can meet their competing responsibilities through the judicious use of staff to keep them informed of developments and by proxy voting. Similarly, few Senators need to remain on the floor for long periods of time; most can keep abreast of developments through staff and the televised coverage of floor proceedings. In any event, it would not be feasible to prohibit committees from meeting when the Senate is in session, particularly toward the end of a session when the Senate is in session from early in the morning until late at night, five days a week.



Jurisdictions

3. Which policy issues within your committee's jurisdiction overlap with those of other committee's? Also, what is your opinion of multiple referrals and the other mechanisms used to deal with cross-cutting issues?

There are four major areas of overlap. First, the Committee on Energy and Natural Resources has jurisdiction over the national forests and wilderness areas on the public domain, while the Committee on Agriculture, Nutrition, and Forestry has jurisdiction over "forests, and forest reserves and wilderness areas other than those created from the public domain." There is no rational basis for the distinction. Most of the national forests are on public land and thus under the jurisdiction of the Committee on Energy and Natural Resources. In my view, all forest issues should be consolidated under the Committee on Energy and Natural Resources.

Second, the Committee on Environment and Public Works has jurisdiction over environmental regulation, which inevitably affects energy policy and the production of energy from sources under the jurisdiction of the Committee on Energy and Natural Resources.

Third, the Committee on Environment and Public Works also has jurisdiction over fish and wildlife while the Committee on Energy and Natural Resources has jurisdiction over wildlife habitat on millions of acres of public land.

Fourth, the Committee on Commerce, Science, and Transportation has jurisdiction over science and technology research and development policy in general, while the Committee on Energy and Natural Resources has jurisdiction over the Department of Energy's national laboratories, the nation's premier centers for science and technology research.

Rule XVII already provides for joint or sequential referrals upon the motion of both the majority and minority leaders. I would not be opposed to greater use of this authority, under appropriate circumstances. Sequential referrals should only be made with strict time limits to prevent committees from keeping legislation reported from the committee of primary jurisdiction from coming to the floor. In no event should use of multiple referrals in the Senate be expanded to the extent they are used in the House. Bills referred to the Committee on Energy and Natural Resources alone in the Senate are sometimes referred to three or four committees in the House. The House's energy bill was referred to ten different committees last year.

### Procedures

4. What procedural changes would improve policy making in committees?

The Committee on Energy and Natural Resources has a long tradition of trying maximize consensus among committee members and minimize partisan tensions wherever possible. Our parliamentary practices are guided by that principle. The Committee makes regular use of proxy voting. Consistent with Senate Rule XXVI, no measure can be reported unless a majority of the committee is physically present, but votes are often held open to permit absent members to vote in person.

### Staffing and Funding

5. Should committee staff levels be reduced, and if so, how? Also, how should a committee's staff and funds be divided?

The Senate should not mandate further reductions of staff levels across the board. If committees must be asked to reduce their staffs, it should be done on a case-by-case basis, related to their existing work loads and productivity. The Committee on Energy and Natural Resources has followed a policy of maintaining a relatively small staff of highly qualified, highly productive professionals. An across-the-board cut would hurt this committee disproportionately compared to some other committees.

The Committee on Energy and Natural Resources divides its staff and funds in three categories. The chairman and ranking minority member agree on staff members and funds which serve all committee members and fuctions. After agreeing on funds for those purposes, the remaining funds are divided two-thirds for the majority and one-third for the minority. Staff and funds are not further subdivided among subcommittee chairmen and ranking minority members. We find that this approach enables the committee to hold down staff size and costs. It also provides greater cohesion within the committee.

SAM NUNN, GEORGIA, CHAIRMAN

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DIRK KEMPTHORNE, IDAHO

LAUCH FAIRCLOTH, NORTH CAROLINA

## United States Senate

COMMITTEE ON ARMED SERVICES

WASHINGTON, DC 20510-8050

June 24, 1993

The Honorable David L. Boren  
 The Honorable Lee Hamilton  
 Co-Chairmen  
 Joint Committee on The Organization of Congress  
 Ford House Office Building, Room 175D  
 Washington, DC 20515-6775

Dear David and Lee:

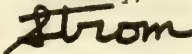
Thank you for providing an opportunity to respond to your questions on the Committee system. Your Joint Committee has dedicated a great deal of time and effort in this area and I hope that the attached comments will be of assistance in your worthy endeavor.

An area of special interest to me is the convergence of responsibilities and functions of the authorizing and appropriations committees. Although turf battles between the authorizers and appropriators are not new, they are more intense and frequent than in earlier times. A proposed solution to this problem is to merge the two functions. Another solution may be to redefine the roles of each of these committees and enforce whatever process is established. In any case action must be taken.

I wish you success and appreciate your dedication toward improving the efficiency and effectiveness of the Congress.

With kindest regards and best wishes,

Sincerely,



Strom Thurmond

ST/p

**Responses to Questions for Committee Leaders  
testifying on the Committee System**

**Strom Thurmond, Ranking Minority  
Senate Armed Services Committee**

**1. Should the total number of committees and subcommittees be reduced, and what should be the maximum number of subcommittees each committee can create? Also, what is the optimal number of assignments per Representative/Senator, and what can be done to prevent waivers of assignment limitations?**

I am confident that the business of the Senate could still be accomplished by reducing the number of committees by half and limiting the number of subcommittees to 3 or 4 per committee. A reduction of this scope would eliminate the current overlap in responsibilities and streamline the legislative process. Concurrent with the committee reductions, I advocate that members be limited to no more than 3 Committees and no more than 3 subcommittees assignments per Committee. Although current membership should be grandfathered, no waivers to the assignment limitation should be granted to incoming members.

**2. What can be done to decrease scheduling conflicts? For example, would it be feasible to prohibit committees from meeting when the chambers are in session, without exceptions? Or, would it work to allow some committees to meet on certain days, and the other committees to meet on different days?**

Something definitely has to be done with regard to committee scheduling. On more than one occasion I find myself scheduled to attend 2 major committee meetings at the same time. Setting aside specific days each month for each committee to meet appears to be a practical approach. The days on which each committee meets should be established by the leadership. Additional days may be requested by the committee and approved by the leadership only after determining that no scheduling conflict exists. I also strongly recommend that each committee set aside one or two days a month for executive meetings to vote on nominations and discuss committee business.

**3. Which policy issues within your committee's jurisdiction overlap with those of other committees? Also what is your opinion of multiple referrals and the other mechanisms used to deal with cross-cutting issues?**

Overlapping issues: environment (Environment and Public Works, Governmental Affairs); energy, conventional and nuclear (Energy and Natural Resources); disposal of DoD property (Governmental Affairs); civilian pay (Governmental Affairs); arms control (Foreign Relations); drug interdiction (Government Affairs, Foreign Relations, Judiciary); intelligence (Select Committee on Intelligence).

Issues should be referred to one oversight committee, with instructions that overlapping concerns must be brought to the attention of other concerned committees and that their concerns must be included in any report.

**4. What procedural changes would improve policy making in committees?**

Foremost among the changes that the Joint Committee can recommend is to establish standard committee operating rules and procedures throughout the Congress. Currently, each committee operates in a different mode -- some allow a rolling quorum, others do not allow proxy votes, some require a majority and minority member to be present for hearings, others don't. Any new rules should cover hearings, votes, and procedures in such detail that a member can move from one committee to another without having to become familiar with a new set of operating procedures.

**5. Should committee staff levels be reduced, and if so, how? Also how should a committee's staff and funds be divided?**

As long as we maintain the current number of committees, it will be difficult to reduce staff size without jeopardizing the support provided to members. If your Joint Committee agrees to reduction in committee structure and the number of committees on which a member can serve, there should be a corresponding reduction in staff. These reductions should be achieved through attrition preferably rather than layoffs.

In terms of the division of staff and funds, the current system of allocation in compliance with Senate Rule 27 continues to be appropriate.



ERNEST F. HOLLINGS, SOUTH CAROLINA, CHAIRMAN

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## United States Senate

COMMITTEE ON COMMERCE, SCIENCE,  
 AND TRANSPORTATION

WASHINGTON, DC 20510-6125

July 2, 1993

The Honorable David Boren  
 Chairman  
 The Honorable Lee Hamilton  
 Chairman  
 The Honorable Pete Domenici  
 Co-Chairman  
 The Honorable David Dreier  
 Co-Chairman  
 Joint Committee on the Organization  
 of Congress  
 Washington, D.C. 20515

Dear Congressman Hamilton:

Thank you for inviting me to submit my thoughts concerning reorganization of the Senate committee structure. My comments primarily relate to the incoherent division of responsibility over foreign commerce among various Senate Committees.

Over the years, the Committee on Commerce, Science, and Transportation has had important jurisdiction over many vital issues affecting the commerce of the United States. The Committee has exercised its jurisdiction responsibly and comprehensively and has developed important expertise in a broad range of interrelated issues, from economic and safety regulation of various industries to the promotion of the international competitiveness of U.S. business. In this regard, however, I am concerned that certain matters which should be considered in the context of these issues have not been assigned to the jurisdiction of the Commerce Committee.

The Commerce Committee dates back to 1816, nearly 180 years ago, when the Committee on Commerce and Manufactures was formed. In those early days, the Committee was embroiled in stormy debates over our tariff protections, as well as other foreign commerce issues. In subsequent years, tariffs have become the province of the Finance Committee, and the Banking Committee has assumed authority over credit programs such as those administered by the Export-Import Bank and the Overseas Private Investment Corporation. This division of responsibility seems appropriate.

- 2 -

However, I am concerned about several issues relating to foreign commerce under the Standing Rules which are not being referred to the Commerce Committee for its consideration -- areas in which the Commerce Committee should be involved. As examples, export promotion and foreign trade assistance for U.S. companies are of great concern to American business and are obviously the kinds of issues over which the Commerce Committee, as the Senate's main business committee, should have jurisdiction. Yet in 1977, the jurisdictional authority over these aspects of foreign commerce was transferred to the Banking Committee. I suggest that the joint committee revisit that decision.

The Commerce Committee always has had responsibility for reviewing and reporting to the full Senate the nominations for the Secretary of Commerce and the other top officials of the Department of Commerce. The main concern of the Secretary in the modern era is foreign trade and commerce. Yet, because of ill-advised changes in legislative jurisdiction in 1977, the Commerce Committee's longstanding interest and involvement in comprehensive oversight of the Commerce Department's activities has been undermined.

It does not make sense that the Commerce Committee is charged with approving the top management of the Department of Commerce but does not have the jurisdiction to oversee the details of very important activities for which those officials are responsible. The Commerce Committee's authority over the Commerce Department is diminished by the lack of oversight of the Under Secretary for International Trade and all the Assistant Secretaries responsible for foreign commerce programs. Rightly, we can affect these Commerce Department programs when they bear on matters specifically within our jurisdiction, such as aerospace, communications, fisheries, and tourism. However, a much more coherent exercise of authority over the Commerce Department would be possible if foreign commerce jurisdiction were comprehensively assigned to the Commerce Committee.

American businesses, whether small, medium, or large, are increasingly competing in a global marketplace, and the Senate Commerce Committee, like the U.S. Department of Commerce, is and should be directly involved in aiding U.S. businesses to acquire the expertise to operate internationally. In focusing on more effective Committee oversight of matters affecting the competitiveness of U.S. business, it is important to review the role of the Commerce Department's International Trade Administration (ITA), which is principally within the jurisdiction of both the Finance and the Banking Committees. ITA maintains in-depth commercial and economic information on the countries and regions of the world that are the key export markets for U.S. businesses. It promotes foreign trade through such activities as the coordination of export promotion trade fairs, exhibits, and trade missions and the formation of export trading companies. Through the U.S. and Foreign Commercial Service, ITA looks after the marketing information needs of the

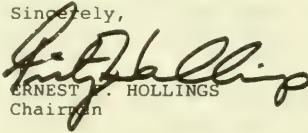
- 3 -

U.S. exporting and international business community. Yet, jurisdiction over its functions does not rest with the Commerce Committee, the primary Committee of the Senate that has jurisdiction over commercial and business activities.

The logic of Commerce Committee jurisdiction over foreign commerce is even more compelling now than it was 20 years ago, when changes in jurisdiction were made. The Nation is becoming increasingly aware of the importance of technological and marketing assistance for industry. The Commerce Committee's Subcommittee on Foreign Trade and Tourism launched numerous initiatives of this kind prior to the 1977 reorganization. During the last four Congresses, one of my major initiatives in the Commerce Committee has been technology competitiveness legislation, which is aimed at marshalling the scientific and technological resources of the National Institute of Standards and Technology of the Commerce Department and other governmental science agencies and forming government-industry partnerships to bolster the competitiveness of American industry. In this regard, the Commerce Committee recently approved the National Competitiveness Act of 1993, which will help U.S. industry to take full advantage of the latest advances in technology in the United States. The Commerce Committee needs its foreign commerce jurisdiction restored so that it can bolster its other efforts and develop a comprehensive package of U.S. business assistance.

I appreciate your consideration of these suggestions. Such changes in jurisdiction will eliminate a serious fragmentation in the Senate's oversight of the Commerce Department's important task of reinforcing U.S. industry's global competitiveness, and yield benefits for industry and the Nation as a whole.

Sincerely,



ERNEST F. HOLLINGS  
Chairman

DENNIS DeCONCINI  
ARIZONA

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JUDICIARY  
VETERANS' AFFAIRS  
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## United States Senate

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June 18, 1993

The Honorable David L. Boren, Co-Chairman  
The Honorable Lee Hamilton, Co-Chairman  
The Honorable Pete Domenici, Vice Chairman  
The Honorable David Dreier, Vice Chairman  
Joint Committee on the Organization  
of Congress  
Room 175D Ford House Office Building  
Washington, D.C. 20515

Dear Colleagues:

I want to thank each of you for all the time and energy you have devoted to this congressional reform initiative. I am confident that whatever recommendations you make will enhance the effectiveness of Congress and improve the quality of life for Members.

The following are my ideas about the questions you posed in your letter of June 1, 1993.

1. While efficiencies could certainly be realized by scaling back the number of committees, I believe it is more important to limit the number of subcommittees and strictly limit the number of committees and subcommittees on which any one Member can serve. Rather than having A, B and C committees be the determinant, I would suggest that no member be allowed to serve on more than three committees, or four if absolutely necessary for staffing, and that no waivers be allowed.

2. One suggestion you might consider to reduce scheduling conflicts is to establish a master hearing computer network into which committees would log their hearings as soon as they are set up. If every office and committee had access to the network, it might reduce conflicts. Also, if no roll call votes could be held until the afternoon, that would clearly reduce the interruptions during hearings. Would it be possible to stack any roll call votes ordered in the morning to a time certain each afternoon? Your suggestion to designate certain days for the specific committees to meet also has merit, but I am not certain that would accomplish the desired result. Nevertheless, I think it is worth a try.

3. I really don't know how you solve the multi-jurisdictional overlap. I do not think you want to eliminate joint and sequential referrals entirely, and I think it is virtually impossible to eliminate all the overlapping jurisdictions. Perhaps you could consider requiring that once one committee reports a bill, the other committee to which it was jointly referred would have a specific, limited time in which to take action on the measure.

4. I believe that uniformity of rules for all committees, except perhaps the Intelligence and Ethics Committees, would be most helpful. While I believe that the elimination of proxy voting has merit politically, I do not believe it is practical considering the incredible demands on Members' time. Eliminating proxy voting might be create a more serious political problem by setting up a system where Members would be forced to miss committee votes due to the inevitable scheduling conflicts. While rolling quorums may not be desirable, they also may be a necessary evil in order to be able to conduct committee business, especially for the B committees.

I would personally like to limit the number of amendments an individual Senator can offer in committee to perhaps six as well as limit debate on individual amendments to one hour. It seems irresponsible to me to allow measures to be filibustered by amendment in committee as well as on the floor.

With regard to procedural changes which would improve committee policy development, I think that it would be helpful if the Chairperson of the relevant committee or subcommittee meet with the Members on a bi-monthly or monthly basis to discuss policy formulation for the committee. It seems to me that the Chairs of the full Committees and Subcommittees operate as free agents with little or any policy coordination. Any suggestions you may have to improve communications or to formulate cohesive policy directions would be a plus.

5. I certainly believe that Committee staffing levels can and should be reduced. To achieve that objective, I think there should be a top to bottom review of committee staffing levels after which a total committee staff ceiling for Congress should be established which could be adjusted temporarily upward by 10% if some serious emergency required it. What comes to mind is the Watergate, Oliver North, and POW-MIA Committees. Obviously, we have to leave ourselves some flexibility in this regard. However, some committee staffs have been increased to respond to emergency situations and have never been scaled back after the emergency subsides. Zero based budgeting makes a lot of sense to this Senator. With regard to the funding allocations between majority and minority staff, I think we should be fair and reasonable. There is no question that the majority staff has a lot more responsibilities than the minority, but I believe a 60-



40 split would be a fair division of funds.

Again, thank you for your dedication to congressional reform. I look forward to your recommendations.

Sincerely,

  
DENNIS DeCONCINI  
United States Senator

DDC/mh

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## United States Senate

SELECT COMMITTEE ON INDIAN AFFAIRS

WASHINGTON, DC 20510-8450

June 25, 1993

The Honorable David Boren  
The Honorable Pete V. Domenici  
The Honorable Lee Hamilton  
The Honorable David Dreier  
Co-Chairman  
Joint Committee on the Organization  
of the Congress  
Room 1750  
Ford House Office Building  
Washington, D.C. 20515-6775

Dear Mr. Co-Chairmen:

Thank you for the opportunity to provide a response to the questions you have posed to those committee chairmen who have presented testimony to the Joint Committee on the Organization of the Congress. Outlined below are my responses:

1. Although it is desirable that the number of subcommittees per standing committee be reduced, I do not believe that a flat rule applying to all can be developed.

For example, after having served on the Appropriations Committee since 1968, I believe that the workload for subcommittee chairmen of the Appropriations Committee would be much heavier than that of some of the chairmen of standing committees. If, for instance, the Appropriations Committee were to be limited to four subcommittees, I am certain that one can readily observe the complex and demanding nature of subcommittee chairmanships.

On the other hand, there are committees that can operate efficiently without any subcommittees -- for example, the Indian Affairs Committee. Throughout my six years as Chairman of the Committee on Indian Affairs, we have not had any subcommittees, however we did have a special committee to investigate a unique problem. This special committee was given a specific assignment of limited duration, a definite limit on appropriations and a limited time in which to come forth with a report.

I believe that the present agreement between the two parties on committee

assignments is a workable one. However, the waiver rule as implemented should be improved.

For example, a waiver for a year or two years should be strictly enforced. Too many waivers because of extensions have become de facto permanent assignments. Although by rule, waivers can be prohibited, I do not believe that this would be wise rule -- I believe the leadership should be given sufficient flexibility to recommend waivers if such waivers are necessary to respond to special contingencies.

For example, occasionally, the leadership finds it impossible to fill committee vacancies. After all, some committees are considered desirable and others are not. In those cases, without a waiver rule, in order to maintain the committee numerical ratio, the leadership would have to reduce the size of a committee and thereby take away an assignment of one who has served long and faithfully.

2. If the Senate had an effective computer scheduling program and with a rule that required committee chairmen to schedule meetings or hearings only in those periods that are approved by the leadership, there would be no scheduling conflicts.

3. For the most part, the policy issues handled by the Indian Affairs Committee do not overlap with those of other committees. Throughout the history of the Senate, the authority to address Indian issues has always been vested in one committee -- with the exception of a thirty year period in which jurisdiction over Indian matters was delegated to two committees. Today, it is rare -- perhaps only once or twice in a Congress -- when another committee requests a joint or sequential referral of a measure that has been referred to the Committee on Indian Affairs. I believe this is testament to the lack of overlap with other committees.

Multiple referrals should be brought under control, because otherwise it will frustrate and prevent the passage of meritorious legislation. Therefore, if multiple jurisdictions are involved, the Parliamentarian should be given the authority to select the committee of primary jurisdiction and authorize that committee to be the responsible entity to manage the measure at every step. However, other committees that have valid jurisdictional involvement should be given an opportunity of a limited time span to consider the legislation and submit recommendations to the primary committee. I would suggest that the time period not exceed 30 days.

4. Most of the measures that are considered by committees are non-controversial. In the United States Senate, last year, of the measures considered and passed, only a small percentage required debate and vote, the rest passed by unanimous consent. The same situation exists in committee consideration of measures. That being the case, committees should be authorized to report measures that are non-controversial without the necessity of a quorum.

For example, if a committee chairman can secure the approval of every member of his committee to report a bill without a quorum, that should be authorized. The chairman can determine consensus or unanimity by polling his membership. However, if any member feels that the matter involved requires debate, then the chair would be required to secure a quorum before a measure can be reported, unless the member, following debate, indicates to the chairman that a quorum is not necessary.

5. As a general response, I would have to say that committees are understaffed, and in some cases, woefully understaffed. However, we have been trapped in a dilemma of our own making, in which we are forced to cut down the cost of operations. As a result, many committees and subcommittees are forced to call upon the very agencies that they are directed to oversee, to furnish staff and experts on a temporary assignment basis.

For example, I am Chairman of the Subcommittee on Defense of the Senate Committee on Appropriations. That subcommittee has jurisdiction over 240 billion dollars. I have a permanent staff consisting of one staff director, one deputy staff director, five professional staffers, and two staff assistants. Because of the complexity and immensity of the jurisdictional workload, I am "forced" to call upon the Department of Defense to provide me with staff. At this moment, we have assigned to my subcommittee, a lieutenant colonel from the Army National Guard, a management analyst from the Office of the Secretary of Defense, a budget analyst from the Department of the Air Force and a senior member of the technical staff from Sandia National Labs. This situation obviously cries out for improvement.

In essence, we have adopted a system that permits in-house departmental lobbyists working at the most crucial level -- staff.

Other committees have accepted volunteers -- non-paid volunteers -- volunteers from major law firms that represent important private interests which come under the jurisdiction of the committee. This is obviously undesirable. But because of the limitations we have imposed upon ourselves, we have very few alternatives.

At a usual hearing of my Defense subcommittee, I have two majority staffers -- one is the staff director and one is the staff person who has been assigned to the subject matter to be discussed, with the same complement on the minority side. However, what we find arrayed at the witness table and behind the witness table are generals, admirals, lawyers, certified public accountants, computer analysts, budget analysts and dozens of expert staff persons.

If the Congress is to operate as an independent body as our founding fathers intended, then we should have adequate staff. If we are to effectively carry out our oversight responsibilities, we need staff.

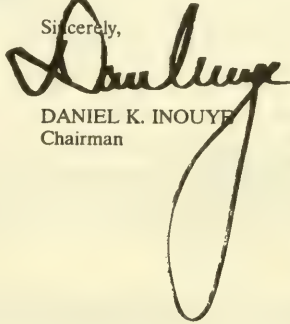
You can not make a flat rule as to how committee staff or funds should be

divided. I think everyone would agree that the Defense Appropriations Subcommittee should have a larger staff than the District of Columbia Appropriations Subcommittee. I believe that that should be the chairman's responsibility. Funds should be divided according to responsibilities.

Each committee should have a core professional staff -- a staff that comes under the supervision of the chairman and the vice-chairman (in my committees, I do not refer to anyone as a Ranking Minority Member -- he is always referred to as the Vice-Chairman with the usual responsibilities and authorities of a Vice-Chairman). Beyond this core of professionals, division of funds should be based upon a mathematical ratio based upon membership. Division of funds beyond that should be determined by the Chairman and Vice-Chairman.

Once again, I appreciate the opportunity to provide additional views to the Joint Committee on the Organization of the Congress.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dan Inouye", with a large, stylized loop extending from the bottom right of the signature.

DANIEL K. INOUE  
Chairman



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## United States Senate

COMMITTEE ON FOREIGN RELATIONS

WASHINGTON, DC 20510-6225

June 16, 1993

The Honorable Lee Hamilton  
 Co-Chairman  
 Joint Committee on  
 The Organization of Congress  
 United States Senate  
 Washington, D.C. 20510

Dear Lee:

Thank you for the letter that you joined in signing requesting my views on several post-hearing questions. My responses to your questions are enclosed.

With every good wish.

Ever sincerely,



Claiborne Pell  
 Chairman

Enclosure

Responses of Senator Claiborne Pell  
 Chairman, Senate Committee on Foreign Relations  
 to Post-Hearing Questions  
 of the Joint Committee on the Organization of Congress  
 June 16, 1993

Members and Assignments

I do not believe that it is necessary to reduce the number of committees and subcommittees. Instead, I would favor reducing the size of existing committees and subcommittees. That could be accomplished by limiting Members to two committees and six subcommittees. Regarding waivers, an indication from the Leaders that assignment limitations will be strictly enforced should be sufficient to put an end to waivers.

Scheduling Conflicts

Expanding the usable time for committee activities would help to resolve much of the problem in the Senate. This could be accomplished by repealing Senate Rule XXVI paragraph 5(a) requiring unanimous consent for committees to meet beyond two hours after the Senate convenes and after 2:00 p.m.

Jurisdiction

The following policy issues involve overlaps with other committees:

-- Item 12 in the jurisdiction of the Foreign Relations Committee (page 23 of Senate Rules) states that the Committee is responsible for "measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad." That conflicts with the Finance Committee's jurisdiction over "reciprocal trade agreements" and "tariffs and import quotas" and with the Banking Committee's responsibility for "export and foreign trade promotion". These should be consolidated in the Foreign Relations Committee.

-- Item 7 in the Committee's jurisdiction covers "international aspects of nuclear energy, including nuclear transfer policy." This conflicts with item 9 in the jurisdiction of the Committee on Governmental Affairs giving that committee responsibility for the "organization and management of United States nuclear export policy." Responsibility for these matters should rest entirely with the Foreign Relations Committee.

-- The Foreign Relations Committee also has within its jurisdiction "foreign economic, military, technical and humanitarian assistance." That conflicts in part with the Agriculture Committee's mandate to "study and review, on a comprehensive basis, matters relating to food, nutrition, and hunger, both in the United States and in foreign countries..." As a result of the latter provision, the PL-480 Food for Progress program is in the jurisdiction of the Agriculture Committee in the Senate; but in the House it is in the jurisdiction of the Foreign Affairs Committee, which, as a result, is responsible for the full range of foreign assistance issues. The Senate should conform with the House's practice.

Regarding multiple referrals, in general I do not favor them, because they consume too much time. It would be better to establish clearer lines of demarcation in jurisdictions than is currently the case. There are occasions, however -- such as the drug bill a few years ago -- where necessarily many committees are involved. In such cases, I favor the tried and true mechanism of Leadership-established task forces to coordinate and manage a multi-committee effort.

#### Procedures

It would facilitate the functioning of committees if rolling quorums were officially authorized and if proxy votes counted in the same manner as "live" votes in every case.

#### Staffing and Funding

I do not believe that further staff cuts are desirable. Regarding the division of funds, I believe that the Senate rule guaranteeing the Minority a minimum of one-third of a committee's funds is equitable. In addition, each subcommittee Chairman and Ranking Minority Member should have at least one committee-funded staff person available and accountable to them on a full-time basis.

ROBERT C. BYRD, WEST VIRGINIA, CHAIRMAN

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# United States Senate

COMMITTEE ON APPROPRIATIONS  
 WASHINGTON, DC 20510-6025

JAMES H. ENGLISH, STAFF DIRECTOR  
 J. KEITH KENNEDY, MINORITY STAFF DIRECTOR

September 15, 1993

The Honorable David Boren  
 Co-Chairman  
 Joint Committee on the Organization of Congress  
 Washington, D. C. 20510

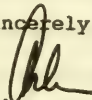
The Honorable Pete Domenici  
 Co-Vice Chairman  
 Joint Committee on the Organization of Congress  
 Washington, D. C. 20510

Gentlemen:

With this letter I am enclosing my statement  
 regarding congressional reforms

I was unable to appear before the Joint Committee,  
 as noted in my statement, because I was convalescing at  
 the time.

Sincerely,

  
 Arlen Specter

Enclosure  
 AS/ml

HAND DELIVER

STATEMENT BY SENATOR ARLEN SPECTER  
REGARDING CONGRESSIONAL REFORMS

Mr. President, the Vice President recently released his Report of the National Performance Review on how our nation's government performs its functions. I suggest that such reforms must also include Congress. I believe that we must address how Congress performs its duties because the American people have been progressively losing confidence in Congress. The fact is, without the support of the American people, our system of government cannot function in the manner it was intended.

I commend the members of the Joint Committee on the Organization of Congress for their efforts to conduct a much needed performance review on this institution. I had intended to testify personally before the Joint Committee on June 17, 1993, but was precluded due to my recent surgery and subsequent convalescence. In fact, I dictated a letter on June 15, the day after my surgery, from my hospital bed to the Co-Chairmen and Vice-Chairmen of the Joint Committee requesting a later date to testify before the Committee on this important subject. Unfortunately, a mutually acceptable time could not be arranged.

Some of the issues which I want to mention briefly, such as those surrounding the budget process, are very technical and perhaps uninteresting to our constituents. But I mention them in the context of being a 12-year member of the Senate Appropriations Committee. Two additional issues which I believe should be addressed by the Congress are committee assignments and member perquisites, and I will briefly touch upon them.



Budget Process

My first recommendation is that there be a two-year budget cycle. I understand that other distinguished colleagues such as Senator Roth made a similar recommendation before the Joint Committee. I also understand that the National Performance Review Report makes a similar recommendation. A two-year budget cycle, which many states have already in place for their state budgets, would give the Administration and Congress more time to structure spending bills and help stimulate more long-term planning. The current system causes redundancy of time and effort; for example, the Administration is trying to plan the fiscal year 1995 and fiscal year 1996 budgets before the fiscal year 1994 budget is even completed.

As a long-time member of the Senate Appropriations Committee, one of the recurring problems we have is meeting the specific funding levels of authorization bills. The current practice of providing spending levels in authorization bills has created expectations which cannot be met through the appropriations bills. I believe we must change this policy to have authorization bills without specific funding levels so that the Appropriations Committee and Budget Committee can evaluate funding for new programs against existing programs.

On a more technical note, I recommend a 60-vote point of order against non-germane amendments. An increase in the vote requirement would discourage the offering of unnecessary amendments and the inclusion of unauthorized provisions in

appropriations bills. In the House, a motion can be offered for the chair to strike non-germane provisions of a bill, including unauthorized projects and programs, from appropriations bills without appeal. My proposal would still allow for an appeal under the Senate rules, but would increase the vote requirement to 60.

I also believe we need to make some adjustments in appropriations procedure to give the full Senate an opportunity to review spending allocations in an effort to ensure that the appropriations bills reflect our nation's priorities. This can be done through Senate approval of the Appropriations Committee's 602(b) allocations for the 13 appropriation bills. Currently, the full Senate approves only the 602(a) allocation contained in the Budget Resolution, with the 602(b) allocation set by the Appropriations Committee. By putting it before the full Senate in the form of a Committee Resolution, the public would better understand the budgetary limitations of the subcommittees and the full Senate would have the opportunity to see if the allocations conform to the will of the Senate.

#### Committees

The issue of committees--the number, jurisdiction, assignments, and limitation on chairmanship terms--is one I know the Joint Committee heard about extensively. I too believe we do need to reduce the number of committees. While this is easier said than done, I do think that reducing the number of committees is possible when you look at the fact that there are nearly eight

times as many committees and subcommittees now as there were 40 years ago. According to the Congressional Research Service, in 1947 the Senate had 38 committees and subcommittees. Today, there are 300 Senate committees and subcommittees. We must study each of the committee jurisdictions and more clearly define them so that overlap can be eliminated.

Another matter of concern is the number of committees on which each Senator is a member. As you might expect, each Senator has twice as many committee assignments now than 40 years ago, with Senators serving on as many as five committees. The growing number of committee assignments for which a Senator is responsible results in a natural lack of focus. There is simply not enough time in the day to adequately deal with the varied and complicated issues we face on our various committees and subcommittees. Therefore, I recommend that Senators be restricted to membership on three committees, two As and one B, and that the number of committees and subcommittees be reduced.

As the number of committees and committee assignments are reduced, however, the length of time that committee chairpersons serve thereon must also be considered. I recommend that the Committee endorse four-year term limits for committee and subcommittee chairpersons so that the concentration of power is not isolated among a few members.

#### Perks

Finally, there is the issue of member perks. During the 102nd Congress, I introduced S.Res.238 to have the Senate

Committee on Rules evaluate Senate perquisites and privileges. I believe that all members, of both the House and Senate, should be required to pay full market value for perquisites such as medical services, gymnasium facilities, airport parking, etc. I also believe that members of Congress should not exempt themselves from the laws they enact.

Addressing the perks issue is vital to how members of Congress are perceived by the public. As Senators, we receive a number of perquisites that are integral to the performance of our official duties such as the franking privilege and our office allowances. I believe, however, that there are some perquisites and privileges afforded to members of Congress that are not integral to the performance of our official duties. Perquisites that are not integral to our official duties should be eliminated, if for no other reason than to ensure that members of Congress are in touch with the experiences of their constituents. We cannot possibly be aware of these experiences if we do not have to face them ourselves.

In sum, Mr. President, performance reviews of the work of the nation's government is a valuable exercise. A review of Congress with resulting reforms to improve the process by which Congress performs its duties will help to regain public confidence. I urge my colleagues and the Joint Committee on the Organization of Congress to consider these recommendations.

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 DOUGLAS AMLEGATE OHIO  
 LAMM EVANS ILLINOIS  
 TIMOTHY J. PERRY MINNESOTA  
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MACC FLEMING  
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ONE HUNDRED THIRD CONGRESS

G.V. (SONNY) MONTGOMERY  
 CHAIRMAN

**U.S. House of Representatives**

COMMITTEE ON VETERANS' AFFAIRS

335 CANNON HOUSE OFFICE BUILDING

Washington, DC 20515

June 10, 1993

## REPUBLICANS

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 MICHAEL BILIRAKS FLORIDA  
 THOMAS J. RINCE PENNSYLVANIA  
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 TERRY EVERETT ALABAMA  
 STEVE BUYER INDIANA  
 JACK OLIVER NEW YORK  
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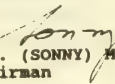
Honorable Lee H. Hamilton  
 Co-Chairman  
 Joint Committee on the  
 Organization of Congress  
 U. S. House of Representatives  
 Washington, DC 20515

Dear Mr. Chairman:

Enclosed are responses to the post-hearing questions in  
 reference to the Committee Structure hearings.

Thank you for allowing me to testify before the Joint  
 Committee.

Sincerely,

  
 G.V. (SONNY) MONTGOMERY  
 Chairman

GVM:per



HONORABLE G.V. (SONNY) MONTGOMERYRESPONSES TO QUESTIONS OF JOINT COMMITTEE

1. Should the total number of committees and subcommittees be reduced, and what should be the maximum number of subcommittees each committee can create? Also, what is the optimal number of assignments per Representative/Senator, and what can be done to prevent waivers of assignment limitations?

I do not favor a reduction in the number of committees, and I believe the changes made at the start of this Congress on the number of subcommittees of each committee have appropriately addressed this issue. As I said in my testimony, I think each House member should be limited to two committees and a total of four subcommittee assignments. Waivers should only be granted in cases where committees have difficulty in filling vacancies.

2. What can be done to decrease scheduling conflicts? For example, would it be feasible to prohibit committees from meeting when the chambers are in session, without exception? Or, would it work to allow some committees to meet on certain days, and the other committees to meet on different days?

I do not think scheduling conflicts would pose a significant problem if members were limited to serving on two committees and four subcommittees. I would oppose any effort to prohibit committees and subcommittees from meeting when the House is in session, since the schedule for the House is so uncertain and subcommittee hearings must often be scheduled months in advance.

3. Which policy issues within your committee's jurisdiction overlap with those of other committees? Also, what is your opinion of multiple referrals and the other mechanisms used to deal with cross-cutting issues?

This is not a problem with our committee. Significant overlaps in policy issues between the Veterans' Committee and other committees do not exist; however, I recognize our jurisdiction is rather unique. Our committee has some overlap with the Armed Services Committee. Occasionally, other committees will report legislation which intrudes into our committee's jurisdiction, but negotiations usually resolve these overlaps without major difficulty.

4. What procedural changes would improve policy making in committees?

Our committee has never permitted proxy voting and the committee has never had difficulty in getting a quorum for our meetings. That does not mean that other committees could conduct business effectively without proxies.

5. Should committee staff levels be reduced, and if so, how? Also, how should a committee's staff and funds be divided?

The staff of the Veterans' Committee has always been one of the leanest in Congress. Decisions about how many staff are needed for a particular committee or subcommittee are difficult to make objectively, because there is no standard applied in determining staff efficiency. What is clear is that a number of staff who are on committee payrolls do not always perform committee work. I have very serious reservations about the use of associate staff on committees. I believe all staff functions should be performed by professional and clerical full committee staff doing full-time committee work. ✓

## MAJORITY MEMBERS

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 ED PASTOR, ARIZONA  
 CARRIE P. MEEK, FLORIDA

**Congress of the United States**  
**House of Representatives**  
**Committee on Appropriations**  
**Washington, DC 20515-6015**

June 24, 1993

## MINORITY MEMBERS

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CLERK AND STAFF DIRECTOR  
 FREDERICK G. MOHRBAUM  
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Honorable Lee Hamilton  
 Co-Chairman

Honorable David Dreier  
 Vice Chairman

Joint Committee on the Organization  
 of Congress  
 Room 175D Ford HOB  
 U.S. House of Representatives  
 Washington, DC 20515

Dear Chairman Hamilton and Vice Chairman Dreier:

Enclosed are responses to questions on the Committee system  
 which you asked me to prepare in your letter of June 1.

I am happy to provide any additional information you require.

Sincerely,

*William H. Hatcher*  
 Chairman

Enclosure

RESPONSES TO WRITTEN QUESTIONS FROM THE JOINT COMMITTEE  
ON THE ORGANIZATION OF CONGRESS

Question #1: Should the total number of committees and subcommittees be reduced, and what should be the maximum number of subcommittees each committee can create? Also, what is the optimal number of assignments per Representative/Senator, and what can be done to prevent waivers of assignment limitations?

Response: The broad, extensive, and unique responsibility of the House Committee on Appropriations has caused our committee to adopt an organization structure and to be subject to certain rules and procedures that are different than most other committees.

Because the Committee on Appropriations is classified as an "exclusive" committee by the Democratic Caucus, our 37 Democratic members can serve on no other standing committee of the House except the Budget Committee unless given a special exemption by Caucus. Hence, only four of the 37 Democratic members of the Committee on Appropriations serve on any other standing committee other than the Budget Committee. Two Appropriations Committee members serve on the Committee on Standards of Official Conduct, one member serves on the Committee on House Administration, and one member serves on the Committee on Small Business.

In addition, given the need to keep manageable sizes for our 13 subcommittees and the need to maintain overall party ratios for subcommittee membership, it works out that no Committee member serves on more than three subcommittees. As a result, we have the following distribution of subcommittee assignments:

Appropriations Committee Subcommittee Assignments

<u>Number of Subcommittee Assignments</u>	<u>Democratic Members</u>	<u>Republican Members</u>
One Subcommittee	2	1
Two Subcommittees	18	21
Three Subcommittees	17	1

This small number of subcommittee assignments coupled with the prohibition on other standing committee assignments has been a real strength for the committee and for the Congress as a whole. It enables our members to devote the time it takes to become experts in their areas and to have the knowledge to make tough choices. This detailed knowledge base is complemented by the wide jurisdiction of the entire committee that allows members to participate in broader issues if they so desire.

Concerning the size of our subcommittees, with 60 members of the full committee, we must now operate eight of our subcommittees with 11 members and five of our subcommittees with 14 members. I believe these sizes approach the maximum limit of what works well for our subcommittees. With larger subcommittee sizes, deadlines become harder to meet and policy initiatives become harder to accomplish. In fact, it would be highly preferable to return to smaller subcommittee sizes of between eight to ten members who become highly expert in their subject areas.



As far as reducing the number of Appropriations subcommittees from the present number of 13, I would be strongly opposed to doing so unless the total size of the committee also were to be cut back substantially. Reducing the number of appropriations subcommittees while maintaining the overall size of the full committee at 60 would cause our subcommittees to become very large and unwieldy. This would make it much more difficult for us to meet our deadlines and to produce bills on time.

An improvement that might be helpful would be to even out the jurisdiction of some of our subcommittees. This, however, would take some time to develop appropriate jurisdictional criteria.

All in all, the Appropriations Committee model of having a relatively large number of decentralized subcommittees within the framework of a full committee with wide jurisdiction affords all Committee members the opportunity to both fully participate in the detailed decisions made by their subcommittees and to have a say in other wide-ranging issues as they are considered in full committee meetings. Our members seem to be well-satisfied with this arrangement. Perhaps other standing committees might find this model to be effective for them also.

Question #2: What can be done to decrease scheduling conflicts? For example, would it be feasible to prohibit committees from meeting when the chambers are in session, without exception? Or, would it work to allow some committees to meet on certain days and the other committees to meet on different days?

Response: The appropriations process is a highly disciplined process which has established scheduling milestones fixed in law. These milestones are largely met. If we are to meet these statutory milestones in the future, it is especially important to continue three practices and procedures:

- (1) the Committee must continue to have authority to meet when the House is in session as is specified in Rule XI;
- (2) the Committee must continue to have Leadership cooperation in scheduling floor time -- especially in late May and June; and
- (3) Budget Resolutions must be completed quickly.

It would do significant harm to the Congressional budget process if the Appropriations Committee were prohibited from meeting whenever the House is in session. Between February and May of every year, each of our 13 subcommittees holds extensive hearings on the President's budget request. These hearings cover virtually every agency in the Federal Government. It is not uncommon for our subcommittees to hold all-day budget hearings for three, four and sometimes five days a week during this period.

For instance, following is a table showing the number of Appropriations subcommittees that held hearings on the FY 1994 budget request during the spring of 1993:

## FY 1994 APPROPRIATIONS SUBCOMMITTEE HEARING WORKLOAD

<u>Date (1993)</u>	<u>No. of Subc. Holding Hearings</u>	<u>Date (1993)</u>	<u>No. of Subc. Holding Hearings</u>
Monday, January 25	1	Monday, March 29	5
Tuesday, January 26	2	Tuesday, March 30	9
Wednesday, January 27	2	Wednesday, March 31	10
		Thursday, April 1	9
Tuesday, February 2	2		
Wednesday, February 3	3	Wednesday, April 14	1
Thursday, February 4	2	Thursday, April 15	1
Tuesday, February 16	3	Monday, April 19	3
Wednesday, February 17	4	Tuesday, April 20	9
Thursday, February 18	5	Wednesday, April 21	8
		Thursday, April 22	9
Tuesday, February 23	10	Friday, April 23	1
Wednesday, February 24	6		
Thursday, February 25	3	Monday, April 26	5
Friday, February 26	1	Tuesday, April 27	9
		Wednesday, April 28	9
Monday, March 1	1	Thursday, April 29	9
Tuesday, March 2	5	Friday, April 30	2
Wednesday, March 3	4		
Thursday, March 4	2	Monday, May 3	3
Friday, March 5	1	Tuesday, May 4	7
		Wednesday, May 5	8
Monday, March 8	1	Thursday, May 6	8
Tuesday, March 9	4	Friday, May 7	5
Wednesday, March 10	6		
Thursday, March 11	2	Monday, May 10	2
Friday, March 12	1	Tuesday, May 11	6
		Wednesday, May 12	6
Monday, March 15	1	Thursday, May 13	5
Tuesday, March 16	4		
Wednesday, March 17	6	Wednesday, May 19	1
Thursday, March 18	4		
		Wednesday, May 26	1
Tuesday, March 23	5	Thursday, May 27	1
Wednesday, March 24	8		
Thursday, March 25	10	Wednesday, June 9	2
Friday, March 26	2	Thursday, June 10	1
		Thursday, June 17	1

These hearings take a great deal of time and effort. For instance, last year, the House Appropriations Committee held a total of 254 days of hearings -- an average of about 20 hearing days per subcommittee. These hearings are the backbone of the appropriations process and would be seriously jeopardized if available meeting times were significantly curtailed.

As we move into our markup phase in May and June, we again would be greatly hindered if we could not schedule subcommittee or full committee markups when the House is in session.

Every year we must conduct a minimum of 26 markups to move our bills -- 13 subcommittee markups and 13 full committee markups. Additional meetings are usually held each year to move supplemental appropriations bills and make committee-wide allocations. This requires committee meetings nearly every legislative day during the end of May and in June. I do not see any feasible alternative to this practice if we are to meet the statutory deadline of passing all appropriations bills in the House by June 30.

Again, in September, we usually have requirements to hold 13 separate conference committee meetings with the Senate. Many of these conferences take several days, sometimes weeks, to complete. I don't believe it is feasible to impose any additional restraint on meeting times if we are to meet the goal of having 13 appropriations bills enacted into law by October 1.

I would also point out that if we were to go to a "three week on, one week off" schedule similar to the Senate system, it would be imperative that votes be scheduled on Mondays and Fridays during the mid-February through June timeframe and in September in order that our committee could complete its work. Losing Mondays and/or Fridays under this system as sometimes occurs in the Senate would greatly impair our ability to complete hearings, markups, and conferences for all 13 appropriations bills by the beginning of the fiscal year.

A related floor scheduling problem that we face from time to time is the competition with authorizing committees for floor time in June and in late September.

It appears from our vantage point that substantial amounts of unused floor time are available to authorizing committees between the January to mid-May timeframe. Any incentives that could be devised to have more authorizing legislation considered in the January-May timeframe would have the double benefit of evening out the workload and providing a better record of the wishes of the House on major budget policy matters. This would assist us in making our budget decisions later in the year.

It is also important for the orderly and timely completion of the appropriations process that Budget Resolutions be completed promptly. Delays at the beginning of the budget process can



result in missed deadlines at the end of the process. No one wants to repeat situations that have occurred in the past in which the President threatens to shut down the Government and end-of-year long-term continuing resolutions are required. This is an extremely poor and unpopular way to complete our yearly budget process.

A very effective provision to promote timely Budget Resolution action is a temporary provision in the 1990 Reconciliation Act (Sec. 603(a) of the Congressional Budget Act) to require that, in the event a budget resolution has not been adopted by April 15, the Chairman of the Budget Committee shall file a discretionary appropriations allocation to the Committee on Appropriations that is consistent with the statutory budget caps. This has permitted House appropriations action in a timely manner.

There is also a permanent provision in Section 303 of the Congressional Budget Act that allows appropriations bills to proceed after May 15 if Budget Resolutions are not adopted.

There is some question whether these provisions will be continued in the 1993 Reconciliation bill now being considered. I believe it is important that they be maintained to ensure timely action on the budget.

**Question #1:** Which policy issues within your committee's jurisdiction overlap with those of other committees? Also, what is your opinion of multiple referrals and the other mechanisms used to deal with cross-cutting issues?

**Response:** Although this question is focused on authorizing committee jurisdictional issues, there are several Appropriations Committee practices that might be useful to consider.

We have uniform jurisdictions between appropriations subcommittees of the House and Senate. We also take care to ensure that jurisdictions do not overlap between subcommittees. This greatly enhances the ability of our subcommittees to move bills and to negotiate successfully with the Senate since all negotiators operate from the same frame of reference and knowledge base.

Question #4: What procedural changes would improve policy making in committees?

Response: Clause 2 of Rule XI allows the Committee on Appropriations to sit, without special leave, while the House is reading a measure under the five-minute rule. This is important given the number of meetings we must have to hold hearings and report out 13 regular appropriations bills and one or more supplemental appropriations bills each year.

Committee rules also do not allow proxy voting, and real quorums are required to be present when a measure is reported. Comprehensive hearings are conducted and completed each year in a timely manner using practices that have been worked out and accepted on a bipartisan basis for scheduling, calling witnesses, taking testimony, and questioning witnesses.

The overall procedural system in place for the appropriations process works well. Meetings are well-attended and members are well-informed on the issues.

Question #5: Should committee staff levels be reduced, and if so, how? Also, how should a committee's staff and funds be divided?

Response: The Committee on Appropriations has a relatively small and highly experienced professional staff to assist in successfully completing a heavy annual workload.

Our committee staff is essential to the members of the committee in completing a very demanding process that requires a great deal of time and effort.

Every year, hearings are conducted with nearly every agency of the Federal Government on the details of the President's budget request. This request totals over \$775,000,000,000 within the Committee's jurisdiction. For instance, last year our 13 subcommittees heard over 5,500 witnesses over a period of 254 hearing days. These hearings were recorded in 88 volumes totaling over 98,000 pages.

Following our yearly hearings, work immediately proceeds on analyzing the information made available to the subcommittees and preparing 13 regular appropriations bills and reports that must move through the legislative process separately each year. In addition, one or more supplemental appropriations bills must usually be prepared and processed each year. The process of moving these bills to completion involves numerous subcommittee and full committee markup meetings, separate floor consideration

of each bill, numerous conference committee meetings, and finally the preparation and passage of at least 13 separate conference reports.

All of this must be completed by October 1 of every year, and each step requires staff assistance to deal with the complexity and large volume of subject matter in a timely fashion.

Although the issues are becoming more complex as the economy and the budget expand, the number of professional staff employed to assist the Committee in completing its work has been held to a relatively constant level over the past five years.

The total onboard staffing level for the core Committee staff has grown by a total of four positions between 1987 and 1992 -- from 77 personnel in 1987 to 81 in 1993. The core committee staff, consisting of all majority and minority professional staff assistants (including administrative support personnel), performs the bulk of traditional committee staff work in terms of organizing, analyzing, and preparing hearings, bills, reports, and other pertinent supporting documents. Our committee staff must also be well-versed in parliamentary procedure to assist members in managing appropriations bills on the floor.

Also on our payroll are "Assistants to Members" who are selected by and report directly to individual members of the committee.



The following table summarizes the staffing history for the Committee over the past ten years:

Appropriations Committee Staffing

Core Committee Staff 1/

<u>On Board As Of:</u>	<u>Majority Staff</u>	<u>Minority Staff</u>	<u>Total Personnel</u>
July 1983.....	65	7	72
December 1987.....	68	9	77
December 1990.....	68	10	78
June 1993.....	71	10	81

Assistants to Members

<u>On Board As Of:</u>	<u>Total Personnel</u>
July 1983.....	57
December 1987.....	109
December 1990.....	109
June 1993.....	117

1/ Includes all professional staff (including administrative support) assigned to the full committee and 13 subcommittees. Excludes investigative staffing.

Considering the volume of work and breadth of subject matter that must be addressed, our core committee staff is well-used, and the staffing level is fully justified. To decrease this level would adversely affect the quality of our bills and reports (our Committee rarely uses Legislative Counsel services because of the highly technical nature of our work). It could also cause delays and missed deadlines and put the Legislative Branch at a disadvantage when dealing with the Executive Branch on budgetary matters.

LEE H. HAMILTON, Indiana  
Chairman

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HOWARD L. BERMAN, California  
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ROBERT E. ANDREWS, New Jersey  
ROBERT MENENDEZ, New Jersey  
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ERIC FINGERHUT, Ohio  
PETER DEUTSCH, Florida  
ALBERT RUSSELL WYNN, Maryland  
DOH EDWARDS, California  
FRANK MCCLOSKEY, Indiana  
THOMAS C. SAWYER, Ohio  
(VACANCY)

MICHAEL H. VAN DUSEN  
Chief of Staff

One Hundred Third Congress  
Congress of the United States  
Committee on Foreign Affairs  
House of Representatives  
Washington, DC 20515

BENJAMIN A. GILMAN, New York  
Ranking Republican Member

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JAMES A. LEACH, Iowa  
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OLYMPIA J. SNOWE, Maine  
HEIDI J. HYDE, Illinois  
DOUG BENEUTER, Nebraska  
CHRISTOPHER H. SMITH, New Jersey  
DAN BURTON, Indiana  
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RODOLPH J. GARDIN  
Republican Chief of Staff

July 19, 1993

Hon. Lee Hamilton, Co-Chairman  
Hon. David L. Boren, Co-Chairman  
Hon. David Dreier, Vice Chairman  
Hon. Pete V. Domenici, Vice Chairman  
Joint Committee on the Organization  
of Congress  
Room 175-D Ford House Office Building  
Washington, D.C. 20515-6775

Dear Colleagues:


Thank you for your letter requesting my additional responses to your Committee's inquiries on the organizational and reform issues it has been reviewing.

I truly appreciated the opportunity to appear before the Joint Committee in my role as Ranking Minority Member on the House Foreign Affairs Committee on May 13th, as you considered possible reforms in committee structure and procedures. I have taken the liberty of enclosing a copy of the statement I submitted to the Joint Committee during that hearing in an attempt to place in perspective my responses to your survey, which are also enclosed.

Once again, thank you for your courtesies and hard work on behalf of your fellow Members of Congress.

With best wishes,

Sincerely,

  
BENJAMIN A. GILMAN  
Ranking Republican Member

BAG/mg

1. Should the total number of committees and subcommittees be reduced, and what should be the maximum number of subcommittees each committee can create ? Also, what is the optimal number of assignments per Representative/Senator, and what can be done to prevent waivers of assignment limitations ?

**COMMITTEE REDUCTIONS:** Yes. My recommendation would be to absorb the Appropriations Committee into the authorizing committees as subcommittees and to absorb the House Permanent Select Committee on Intelligence into a Joint Committee on Intelligence with its Senate counterpart.

**SUBCOMMITTEE REDUCTIONS:** It is probably necessary to have limitations on the creation of subcommittees within the standing Rules of the House, but any such limitation must be appropriate to the breadth of a given committee's jurisdiction, i.e. committees with broader responsibilities should have the ability to create a greater number of subcommittees than those with more narrow responsibilities.

**COMMITTEE AND SUBCOMMITTEE ASSIGNMENT LIMITS FOR MEMBERS:** Rather than simply just placing tight limits on assignments, a better approach would combine general limits with some practical changes in committee procedures that would give Members "disincentives" to overextend themselves in such assignments. Such practical changes would include an absolute prohibition on proxy voting; no allowance for quorums of less than one-third of the committee members for any committee actions that do not involve reporting of a measure; and recognizing committee members for purposes of questioning witnesses at a hearing based on their order of arrival and duration of attendance at that hearing.

I do not cast any aspersions on the motives of those Members who may, in the view of others, overextend themselves in the committee assignment process as it currently stands. I believe that most of those who may be overextended in that regard are simply interested to represent their constituencies to the maximum extent possible in as many issue areas as they can. In that regard, we must also consider that Members might chafe at very tight limits on assignments if they were to see them as an obstacle to their attempts to better represent the interests of their constituencies. It is also worth noting that, the more that we restrict Members' input on issues by restricting their membership on committees with jurisdiction over those issues, the more that the case for open rules for consideration of committee-reported measures in the Committee of the Whole House, i.e. the opportunity for Members not on a committee to influence legislation on behalf of their constituents, is buttressed.

**ENFORCEMENT OF ASSIGNMENT LIMITATIONS:** If a tight assignment limitation is enacted, its enforcement would require a provision in the standing Rules of the House that could not easily be waived through majority vote of the House membership, requiring perhaps a special resolution that could only be approved by a vote of two-thirds.

2. What can be done to decrease scheduling conflicts ? For example, would it be feasible to prohibit committees from meeting when the chambers are in session, without exception ? Or, would it work to allow some committees to meet on certain days, and the other committees to meet on different days ?

We could perhaps experiment in the House with the "three weeks on--one week off" concept of floor scheduling to see whether that would improve things. We could also consider combining "disincentives" for committee members to arrange their schedules unrealistically on days when committee meetings are scheduled (i.e. a ban on proxy voting; an end to the use of the new "rolling quorum" in committees; recognition of committee members for purposes of questioning witnesses based on their order of arrival and duration of attendance; and higher committee quorums for holding hearings and taking evidence) with some kind of incentives for majority and minority members of committees to better coordinate meetings of the committees and their subcommittees.

3. Which policy issues within your committee's jurisdiction overlap with those of other committees ? Also, what is your opinion of multiple referrals and the other mechanisms used to deal with cross-cutting issues ?

**OVERLAPPING JURISDICTIONS:** My greatest concern, as I pointed out in my testimony before the Joint Committee, is the inadvertent usurpation of the functions of authorizing committees such as the House Foreign Affairs Committee by the Appropriations Committee through the frequent grant of waivers of the rules prohibiting authorizing in a general appropriations bill and the overreliance on continuing resolutions.

I am also concerned that House committee jurisdictions may need some updating. In the case of the Foreign Affairs Committee, it is important to clarify its role as the committee with jurisdiction over intervention abroad, including the commitment of United States armed forces to international peacekeeping missions, and with jurisdiction over the allocation of funds and oversight in such matters as the international efforts to combat illicit drugs and to improve the global environment.



Finally, I am concerned that, unlike the Senate Committee on Foreign Relations, the House Committee on Foreign Affairs does not have jurisdiction over the World Bank, the regional development banks, and other international organizations established primarily for development assistance purposes. These international institutions, while referred to as "banks," are really a means of providing U.S. and international economic assistance to developing countries and to countries making the transition to market-based economies. At the very time that their role in channelling such assistance to those countries has grown, the Foreign Affairs Committee has not held jurisdiction over their establishment and operation since that was transferred to the Banking Committee eighteen years ago. The Foreign Affairs Committee's necessary role in this area is tacitly recognized, not just by its Senate counterpart's jurisdiction, but by House Rule X, clause 3(d), which provides special oversight responsibility to the Foreign Affairs Committee in the area of international financial and monetary organizations.

I believe that the Foreign Affairs Committee's jurisdiction over the multilateral development banks should be reinstated in an effort to better align jurisdictions with its Senate counterpart and to better coordinate our foreign assistance programs. For example, while the European Bank for Reconstruction and Development is an integral part of the effort to assist the economies of Eastern Europe and the former Soviet Union, its operations, which have been heavily criticized in recent months, do not fall under the Foreign Affairs Committee's jurisdiction.

**MULTIPLE REFERRALS:** I fully recognize the role that such referrals can play in slowing down legislation, creating legislative "gridlock," and promoting inter-committee "bartering" that may not necessarily serve the purposes of open government or the full involvement of all of the members of the committees involved. Having said that, I do not pretend to know the perfect solution. It would seem that complete elimination of such a process might possibly raise other difficulties in an age when so many issues are complex and fall within multiple jurisdictions. Perhaps the idea of designating one committee as the primary committee of jurisdiction on a certain measure, and allowing committees designated as secondary on that bill to have their recommendations on it considered, would be worth pursuing as long as it, in turn, does not end up creating more problems than it solves.



4. What procedural changes would improve policy making in committees ?

As I mentioned earlier, the elimination of proxy voting; the end of the "rolling quorum"; and the application of a quorum of no less than one-third of the committee for purposes of holding hearings and taking evidence would all go a long way towards improving committee attendance, and therefore procedures.

Committee staff should be allocated fairly, with the standing rules providing the minority with one-third of the investigative staff as well as one-third of the statutory staff.

The idea of expanding the Ramseyer rule to reports on measures by subcommittees is worth close consideration, and, in general, it should be made clear that subcommittee procedures are to be consistent with committee procedures.

Finally, the provision of more parliamentary guidance to committees to ensure that the procedures and precedents used in considering measures and conducting operations are in fact consistent with House rules and precedents would probably be useful.

5. Should committee staff levels be reduced, and if so, how ? Also, how should a committee's staff and funds be divided ?

**REDUCTION OF COMMITTEE STAFF:** Committee staff should not be looked at in isolation from other types of staff employed in the legislative branch when it comes to possible reductions. There may indeed be room for reductions, and, as Chairman Hamilton and I made clear to the House Administration Committee's Subcommittee on Accounts earlier this year, we will continue to look for such reductions in future. We should keep in mind, however, that committees with broad responsibilities will have need for larger staff than those with more narrow jurisdictions.

Committee staff reductions, like those in other types of staff, would best be done through a careful review of staff responsibilities and workloads, with an eye to employing attrition wherever possible and appropriate. A first step in this process might possibly be the revision of the process by which staff and resources are allocated to committees by removing the artificial division between statutory and investigative staff. To the extent that a careful review of staff and resources and possible reductions in those is not conducted, blanket reductions become more attractive to the Members in this time of fiscal deficits.

**DIVISION OF COMMITTEE STAFF AND RESOURCES:** The standing Rules of the House should make it clear that one-third of all committee staff are to be provided to the Minority. Committee resources should also be allocated on an equivalent basis.

Congressman Benjamin A. Gilman  
Ranking Republican Member  
Committee on Foreign Affairs

Remarks Before the Joint Committee  
on the Organization of Congress  
May 13, 1993

Thank you, Mr. Chairman and members of the Joint Committee.

Before I get into my statement, I want to say that I truly appreciate the efforts that the Joint Committee has undertaken to solicit the views of Committee Chairmen and Ranking Members on how the present committee structure might be improved.

My fellow Members of Congress, the Constitution mentions nothing about committees, but they have been an integral part of the Congress from its very first session. They do not exist for their own sake, but for one simple reason: Members, while expected by their constituents to exercise broad legislative and oversight responsibilities, cannot be everywhere at once and cannot be specialists in everything.

Committees were therefore conceived long ago as a means to help the members, all of them, minority as well as majority, to meet the voters' expectations in these areas. In short, they are the agents of all of the Members, meant to help them do their jobs.

Having said that, let me touch on a few things that concern me about some current aspects of committee operations as a member of the minority—of the "loyal opposition"—in the House.

First, there are some well-known problems with the use of proxy voting; with the possibility for abuse of the new, so-called "rolling" quorum; and with disproportionate allocation of committee investigative staff and committee facilities between majority and minority members.

Second, there is growing complaint among the House minority that there is really no mechanism available to committee members to ensure that committee procedures—and the precedents they may be followed in those procedures—are consistent with the standing rules of the House of Representatives. As it stands now, committee members have relatively little recourse to either rulings of the House Parliamentarian or to enforcement of points of order in the House to seek redress for the use of any inappropriate procedures in committee.

While I know of no egregious example of this in my experience in the Foreign Affairs Committee, I believe that the current situation could invite abuse. I therefore want to lend my voice to the call that this procedural question be examined in order to ensure that there is adequate enforcement of House rules within House committees.

Members of the Committee, let me recommend that you examine the following solutions to these problems:

First, elimination of such clearly objectionable committee procedures as the use of proxy voting and "rolling quorums."

-2-

Second, clearly setting out in the standing rules of the House the right of the minority on committees to one-third of the investigative staff of that committee—the same proportion already reserved to the minority under those rules when it comes to so-called “statutory” staff.

Finally, the possibility of providing more parliamentary guidance, perhaps of a binding nature, to committees in order to ensure that their actual procedures, not just the rules that they adopt, are consistent with House rules and precedents.

I would like to now raise some points that concern me as a long-time member of the Foreign Affairs Committee interested in ensuring that that Committee fulfills its duty to the Members of the House of Representatives—namely, conducting oversight and recommending appropriate legislation in the area of foreign policy.

The Committee took a leading role in the historic debate and vote on the Persian Gulf resolution and in securing passage of the FREEDOM Support Act. But in other areas the Committee is almost powerless to work its will and fulfil its responsibilities. Its jurisdiction has been usurped to a very great degree by the appropriations process and by inroads from other committees. When foreign assistance authorization legislation is — more often than not — held up, the appropriations process marches forward according to the calendar set out under the Budget Act, pulling the Congress with it.

An indication of just how bad things are is the fact that the committee has not enacted its principle legislation — the foreign assistance authorization act — since 1985.

Appropriators, aided by waivers of standing House rules against authorizing in appropriations bills, and the need to keep important government programs operating, time and time again step in and become foreign policy-makers. While not necessarily seeking that role, the Appropriations Committees inadvertently become more than just the guardian of the public purse they were meant to be.

I will not pretend to know the complete solution to this problem, but I feel strongly it needs to be addressed. Let me just recommend that you explore the following ideas in this regard.

First, the incorporation of the Appropriations Committees into the authorizing committees. I view this as the best solution. Short of this, I would urge that current House Rules be enforced, or new rules promulgated, to prevent authorizing on appropriation bills. I would be all in favor, for instance, on a rule which prevented any appropriation measure from being considered on the floor if the authorizing legislation had not already preceded it.

Second, you might consider use of special procedures in each of the bodies for the convening of temporary, special committees, composed of members of both the appropriations committees and the relevant authorizing committees, to mark-up appropriations bills when the necessary, major authorizing legislation has not yet been enacted.

Mr. Chairman, I would also like to comment on a recent proposal to merge our Committee with the Armed Services Committee. It is no secret that this Committee is now considering issues and legislative proposals that directly impact our Committee's jurisdiction, particularly in the areas of peacekeeping and weapons sales and proliferation.



-3-

But I would argue that there is a continuing need for the Foreign Affairs Committee to conduct its own oversight and legislative review in these critical areas of foreign policy. Our participation in future peacekeeping missions and our continuing efforts to control the proliferation of the weapons of mass destruction has a direct impact in our relations with key allies in Europe and Asia and needs to be carefully considered by our appropriate regional subcommittees.

I will close my testimony at this point with some final general requests.

In every way possible, please be certain that any changes in committee structure and procedures you recommend make it clear that the minority is always to be informed and consulted to the maximum degree possible.

Also, I would request that the House leadership try to limit the practice of moving omnibus "emergency" legislation through the Congress in a fashion that undercuts the deliberative process of our Committee. When necessary, we have demonstrated our ability to act on a timely basis as demonstrated by the enactment of the FREEDOM Support Act and the Persian Gulf Resolution. Let us be vigilant in not short-circuiting the legislative process especially in the critical area of foreign and national security policy. If, for example, we are to commit ground troops into the Balkans, our Committee and the entire House should have a full and ample debate in this critical foreign policy area.

Finally, please do whatever you can to minimize the scheduling conflicts that all Members confront in trying to balance their work in committee, on the floor, and in their states and districts. Anything that can be worked out in that area would, in itself, be a terrific service to this institution.

Once again, thank you for soliciting the comments of Committee Chairmen and Ranking Members. The efforts you and your Joint Committee are making are appreciated by the members in both houses and in both parties.



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## COMMITTEE ON EDUCATION AND LABOR

U.S. HOUSE OF REPRESENTATIVES

2181 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-8100

June 24, 1993

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The Honorable Lee H. Hamilton  
Co-Chairman  
Joint Committee on the Organization of Congress  
175D Ford House Office Building  
Washington, D.C. 20515

Dear Mr. Co-Chairman:

Thank you for your letter of June 1, 1993, asking for my views on various questions about the committee system. My thoughts on those questions, which I stress are directed only to committees of the House, follow:

*Should the total number of committees and subcommittees be reduced, and what should be the maximum number of subcommittees each committee can create? Also, what is the optimal number of assignments per Representative, and what can be done to prevent waivers of assignment limitations?*

I supported doing away with the select committees. I do believe that the worthwhile activities of those committees are outweighed by the distractions created which make it more difficult for the standing committees to go about their legislative business. Any committees, other than standing committees, should be truly temporary.

I do not believe there is a need to reduce the number of standing committees. As the former Chairman of a non-major committee which has been mentioned as a candidate for elimination, I know first hand that the issues addressed by non-major committees deserve and need careful attention and consideration which they will not receive if they are scattered among other committees.

I would argue strongly against reducing further the number of subcommittees for standing committees. As a result of last year's rules changes, the Committee on Education and Labor eliminated two subcommittees and, frankly, I fear some issues are not receiving the attention they deserve. Also, to facilitate

The Honorable Lee H. Hamilton  
 Page Two  
 June 24, 1993

congressional oversight I would like to establish an oversight subcommittee, but it is simply not practical to reduce the number of legislative subcommittees from 6 to 5 given the numerous legislative efforts facing the Committee. Nor do I see any need to reduce the maximum number of subcommittees on which a Member may sit.

*What can be done to decrease scheduling conflicts? For example, would it be feasible to prohibit committees from meeting when the chambers are in session, without exception? Or, would it work to allow some committees to meet on certain days, and the other committees to meet on different days?*

First, committees must be permitted to sit while the House is in session if we are to have any chance of adequately performing our legislative functions. Given the typical Tuesday to Thursday floor schedule, and the fact that the hour of meeting for the House is routinely changed, it is almost impossible to schedule a committee meeting that will not involve a conflict with the House schedule. Tuesdays and Thursdays are virtually useless for committee meetings as Members understandably arrive back from their districts late on Tuesdays and leave early on Thursdays. When it meets on Wednesday, this Committee generally has no difficulty obtaining an appropriate quorum to do business. Given the fact that Members sit on this Committee as their first choice, that is not surprising. I am sensitive to the difficulties of non-major committees who must compete for the attendance of Members who generally have chosen the non-major committee as a second choice. Designating certain days as "major" or "non-major" committee meeting days might help, but not unless we address the Tuesday/Thursday floor schedule problem.

*Which policy issues within your committee's jurisdiction overlap with those of other committees? Also, what is your opinion of multiple referrals and the other mechanisms used to deal with these cross-cutting issues?*

Overlapping policies issues include: health care (Ways and Means, Energy and Commerce); juvenile justice and delinquency prevention (Judiciary); defense conversion (Armed Services); dislocated workers (Energy and Commerce (Clean Air Act) and Ways and Means (Trade Adjustment Assistance)); welfare reform and child care (Ways and Means); civil rights (Judiciary); employee welfare benefit plans (ERISA) (Ways and Means); nutrition (Agriculture); science and mathematics education (Science and Technology); and workplace and school environment (Energy and Commerce).

The Honorable Lee H. Hamilton  
 Page Three  
 June 24, 1993

Joint and sequential referrals are essential to ensure policy issues are addressed by those with the expertise and institutional memory concerning them. In my view, the Speaker does an exceptional job of exercising his referral authority and I would be opposed to any change in this area.

*What procedural changes would improve policy making in committees?*

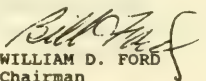
The change in House Rule XI, clause 2.(1), which makes it possible for committees to report noncontroversial matters or measures without a quorum present has been helpful. I would strongly oppose, however, any change in proxy voting. Proxies are particularly important to permit a Member to go on record when a legitimate scheduling conflict prevents his or her physical presence.

*Should committee staff levels be reduced, and if so, how? Also, how should a committee's staff and funds be divided?*

Absolutely not. Our staff is stretched thin. If we could afford it and if we could find an individual willing to work for the salaries we can pay, we would hire at least two more experts. I have always negotiated the division of committee funds with our Ranking Minority Member, and in my 13 years as a full committee chairman this has never been a particular problem. I would caution those who propose strict rules for dividing staff or funds to remember that it is the responsibility of the majority party to see that things get done; that reports get written, hearings edited and printed; and travel vouchers and payrolls processed. The protestations of the minority notwithstanding, the majority simply must have substantially more resources.

With kind regards,

Sincerely,

  
 WILLIAM D. FORD  
 Chairman

WDF:pm

cc: Hon. David L. Boren, Co-Chairman  
 Hon. Pete V. Domenici, Vice Chairman  
 Hon. David Dreier, Vice Chairman

**U.S. House of Representatives**  
**COMMITTEE ON ARMED SERVICES**  
**Washington, DC 20515**

June 21, 1993

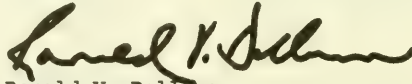
Honorable David L. Boren, Co-Chairman  
Honorable Lee H. Hamilton, Co-Chairman  
Honorable Pete V. Domenici, Vice Chairman  
Honorable David Dreier, Vice Chairman  
Joint Committee on the Organization of Congress  
Room 175D, Ford House Office Building  
Washington, D.C. 20510-6775

Dear Gentlemen:

Thank you for your letter of June 1 seeking my responses to post-hearing questions related to my testimony before your committee. You will find my responses attached.

Thank you again for the opportunity to participate in your deliberations.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ronald V. Dellums". The signature is fluid and cursive, with the first name "Ronald" being more prominent.

Ronald V. Dellums  
Chairman

RVD:lc

Attachment

Responses of the  
Honorable Ronald V. Dellums  
to  
Questions for Committee Leaders Testifying  
on the Committee System  
before the  
Joint Committee on the Organization of Congress

Question 1: Numbers of Committees and Committee Assignments

*Should the total number of committees and subcommittees be reduced, and what should be the maximum number of subcommittees each committee can create? Also, what is the optimal number of assignments per Representative/Senator, and what can be done to prevent waivers of assignment limitations?*

I believe very strongly that the numbers of committees and subcommittees should be reduced from their current levels. But these limitations must be combined with additional limits on the number of committee/subcommittee assignments a Member may have and the number of Members per committee to ultimately solve the problems we have with committee operations and scheduling conflicts.

There is probably no magic, universal formula for determining the number of subcommittees a committee may have. It depends to a large extent on the breadth of committee jurisdiction, the logical division of that jurisdiction, and the number of committee Members. On the Armed Services Committee we were able to reduce from seven to six subcommittees in the 103d Congress because of such jurisdictional structure. Further reductions in subcommittees would probably require fewer Members for the committee, something I would favor. Similarly, the reduction in the number of committee/subcommittee assignments for Members would follow from the concomitant reduction in such opportunities.

In the end, the only effective way to prevent waivers of assignment limitations is the solid commitment from the leadership on both sides of the aisle to enforcement of these limitations.

Question 2: Scheduling Conflicts

*What can be done to decrease scheduling conflicts? For example, would it be feasible to prohibit committees from meeting when the chambers are in session, without exception? Or, would it work to allow some committees to meet on certain days, and the other committees to meet on different days?*



In an institution as large, complex, and unique as the Congress of the United States it is inevitable that some scheduling conflicts will occur. The point is to minimize these to the extent possible. I believe that the reforms outlined in my response to the first question are absolutely necessary ingredients in minimizing scheduling conflicts. They may even be sufficient in and of themselves in this regard.

I do not believe that limitations on the ability of committees to meet while the House or Senate is in session or limitations on which days committees may meet are effective ways of overcoming scheduling conflicts. Indeed, they may only serve to exacerbate the problem if not combined with stringent limitations such as those outlined in the first question.

### Question 3: Jurisdictions

*Which policy issues within your committee's jurisdiction overlap with those of other committees? Also, what is your opinion of multiple referrals and the other mechanisms used to deal with cross-cutting issues?*

Given the size of the Executive Branch agencies under the jurisdiction of the Committee on Armed Services it is a virtual certainty that overlaps with the jurisdictions of other committees will exist under the current Rules of the House.

I would count the following (non-exhaustive list) among the more significant overlaps:

- o Acquisition Policy -- The Department of Defense remains a major government consumer of goods and services. Attempts to reform and streamline these processes inevitably cross jurisdictional lines with the Government Operations Committee.
- o Defense Conversion and Reinvestment -- This increasingly important effort crosses several jurisdictional lines, including the committees on Education and Labor, Post Office and Civil Service, Small Business, and Ways and Means.
- o Use of Military Force -- In the post-Cold War era we need to confront significant questions in this area. Armed Services' interests inevitably come into contact with interests of the Committee on Foreign Affairs.
- o Intelligence -- Armed Services shares jurisdiction with the Permanent Select Committee on Intelligence for a host of program and policy choices in this area.

o Environmental Matters -- The physical plants of the Departments of Defense and Energy need substantial environmental compliance and remediation efforts. This situation is exacerbated by the accelerating pace of base closures. These matters typically cross jurisdictional lines with the committees on Energy and Commerce, Public Works and Transportation, and Merchant Marine and Fisheries.

Under current House Rules the system of multiple referrals is probably the best and only protection committees have that their jurisdictional interests may be preserved. That said, the current system is at best an expedient. As I noted in my prepared remarks, the House needs a fundamental, top-to-bottom review of committee jurisdictions to eliminate as many of these overlaps as possible. As a thought, perhaps a system that includes both primary and secondary jurisdictions -- with accompanying rights and responsibilities -- could be incorporated into such a review.

#### Question 4: Procedures

*What procedural changes would improve policy making in committees?*

As a general rule, I believe that any change that helps committees conduct a fair and open policy debate is worthy of consideration. Procedural changes adopted in the House this year are helpful in this regard.

That said, it is increasingly difficult to conduct meaningful policy making debates in committees with large memberships. Given that all Members have a right to be heard and to receive responses to their inquiries, questioning of witnesses and the frank interchange of views among Members becomes shallow and less informative when a committee of nearly 60 attempts to delve into the difficult policy issues of the day.

Let me also add that I would oppose the elimination of proxy voting absent a fundamental restructuring of the committees of the House.

#### Question 5: Staffing and Funding

*Should committee staff levels be reduced, and if so, how? Also, how should a committee's staff and funds be divided?*

I support economies and efficiencies in congressional operations wherever possible. That said, we should not be coerced into some mindless exercise to reduce the level of congressional staff simply for the sake of perceptions. As a co-

equal branch of government the Congress should employ the resources it needs to carry out its functions under the Constitution.

As I have testified before the Committee on House Administration, there are significant disparities among staffing levels and resources among the committees of the House. There are many reasons for this, including historical funding patterns, policies of previous committee chairmen, and anachronistic staffing patterns. We should seek to change the playing field by recognizing the disparities caused by these situations and make staffing changes accordingly.

I think that "balkanizing" committee staffs by granting budget and staffing autonomy to subcommittee chairmen and ranking members contributes to the current situation. We could make some significant improvements in the current staffing situation in the House by adhering to a professional staff system administered at the full committee level. I believe the existing House rule granting staff appointments to subcommittee chairmen and ranking members is sufficient to their needs. In that same regard, I believe the current entitlements and goals for minority staff under the House and Democratic caucus rules are also sufficient.

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## U.S. House of Representatives Committee on

### Merchant Marine and Fisheries

Room 1334, Longworth House Office Building  
 Washington, DC 20515-6230

June 7, 1993

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 JEFFREY R. PILE

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The Honorable Lee Hamilton  
 Co-Chairman  
 Joint Committee on the Organization of Congress  
 175-D Ford House Office Building  
 Washington, D.C. 20515-6775

Dear Mr. Chairman:

I would like to thank you for your thoughtful letter and enclosed follow-up questions to the testimony I submitted to the Joint Committee on the Reorganization of Congress on April 29th.

I am pleased to have this opportunity to respond to your inquiries and to reiterate my strong belief that the Committee on Merchant Marine and Fisheries should be retained in the future. As Congressman Don Young, the Ranking Republican Member of the Natural Resources Committee, stated in his remarks of May 13th, "If you truly want efficiency, if you truly want sound legislation that benefits the American people, if you want this Congress to work as it should, then protect the Committee on Merchant Marine and Fisheries."

Clearly, the 206 million Americans who live in coastal areas deserve to have a forum in the United States Congress. That forum should be the House Committee on Merchant Marine and Fisheries.

Having said that, let me attempt to respond to your specific follow-up questions. First, while I am not advocating the elimination of any standing committee, there are simply too many subcommittees in the House of Representatives. I recommend that the number of subcommittees be reduced to no more than five for a major committee and no more than four for a non-major committee. The only exception would be the House Appropriations Committee. This change would eliminate 20 subcommittees. In addition, I recommend that each Member have no more than four subcommittee assignments, that temporary appointments be eliminated, and that most, if not all, committees be reduced in size. In the case of the Merchant Marine and Fisheries Committee, we could easily reduce the size of our membership from its current level of 48 to 35 or 40 Members.

Second, we must decrease scheduling conflicts. There has to be a more efficient way to coordinate the schedules of major and non-major committees so that Members are not constantly required to attend two or more committee meetings at the same time. This is particularly true in the case of subcommittee and full committee markup sessions. While I am not committed to any specific notion, it might be useful to restrict committee markup sessions to specific days and times.

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Third, in some cases, the Merchant Marine and Fisheries Committee shares jurisdiction with another standing committee. A few examples include: the Clean Water Act, the Deep Seabed Hard Minerals Act, the Capital Construction Fund, and the Outer Continental Shelf Lands Act Amendments of 1978. While I am not aware of any major problems that have arisen because of this overlapping jurisdiction, we should limit multiple committee referrals. I would support giving the Speaker additional authority to determine a primary committee and to establish specific time limits on the other committees that may receive a concurrent referral of a bill.

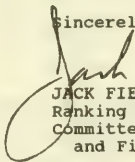
Fourth, in terms of procedural changes, I recommend that we eliminate proxy voting, rolling quorums and that we consider most, if not all, major legislation under an open rule. Throughout its history, the Committee on Merchant Marine and Fisheries has operated in a bipartisan manner and we routinely ask the Committee on Rules to provide the membership of the House an opportunity to amend or improve our legislation under an open rule. With the elimination of certain subcommittees and the downsizing of standing committees, there is no need to continue either proxy voting or rolling quorums.

Finally, I do not believe that the committee's minority staff level should be reduced. At this time, we have 22 minority staff positions who work for the 19 Republican Members of the Committee on Merchant Marine and Fisheries. These individuals, which include 14 women and 8 men, are hard-working, loyal, and highly educated professionals who consistently work long hours to meet the needs of the American people. They are public servants in the finest tradition of their nation. Furthermore, our Committee's investigative budget has been frozen for the past three years and, consequently, none of the 22 professionals received either a cost-of-living or merit increase this year. While the minority is treated fairly by the Chairman of our Committee, in my judgement, the system could be improved by allowing every Ranking Republican Member to decide how they will spend their share of a committee budget each year. Furthermore, the rules of the House of Representatives should be changed to ensure that the minority on each committee receives at least one-third or 33 percent of all investigative funds.

Again, I appreciate this opportunity to share with you my follow-up thoughts on these important issues. While I recognize you have an extremely difficult task, it is my firm belief that Congress can enact meaningful reforms of our legislative process without eliminating committees, like Merchant Marine and Fisheries, that produce vital legislation for all Americans.

With best wishes, I am

Sincerely,



JACK FIELDS  
Ranking Republican Member  
Committee on Merchant Marine  
and Fisheries

JF:hb1



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**U.S. House of Representatives**  
**Committee on**  
**Natural Resources**  
 Washington, DC 20515-6201

June 25, 1993

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 Co-Chairman  
 Joint Committee on the Organization of Congress  
 Washington, D.C. 20515

Honorable David L. Boren  
 Co-Chairman  
 Joint Committee on the Organization of Congress  
 Washington, D.C. 20515

Honorable David Dreier  
 Vice-Chairman  
 Joint Committee on the Organization of Congress  
 Washington, D.C. 20515

Honorable Pete V. Domenici  
 Vice-Chairman  
 Joint Committee on the Organization of Congress  
 Washington, D.C. 20515

Dear Gentleman:

Please find enclosed my responses to your June 1, 1993 letter in which you posed five post-hearing questions regarding Committee Structure.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

*George Miller*  
 GEORGE MILLER  
 Chairman

Responses of Chairman George Miller  
to the June 1, 1993 questions of  
the Joint Committee on the Organization of Congress

1. There are probably too many committees and there are certainly too many subcommittees. Although the reduction of the number of standing committees by one or two could enhance efficiencies and help simplify scheduling, I don't believe that the problem is the sheer number of committees as much as an uneven and inconsistent allocation of responsibilities. Significant advantages could result from a restructuring that includes a more equal distribution of jurisdictional responsibilities.

I would caution that consolidation of jurisdiction and resulting pressure to reduce the number of committees or member assignments could result in some committees with membership drawn from only a group of members whose primary and somewhat specialized interests are addressed by these committees. This skewed membership may not represent the position on issues that will be taken up by the Majority of the House. Elimination or reduction of the number of panels could also result in a very small minority--the membership of only one Committee--possessing total jurisdiction over major issues. Multiple referrals and shared jurisdiction assures that significantly more Members will have an opportunity to influence the debate.

2. Multiple Committee assignments and shared jurisdiction will, of necessity, result in scheduling conflicts. It may be that chronic scheduling conflicts are a cost of doing business in this diversified institution.

The number of committees, subcommittees and the distribution of assignments should not be considered in a vacuum, and cannot be divorced from the resolution of a number of related issues, including multiple referrals and jurisdiction reform. Were the House to consolidate committee jurisdictions in broad coherent categories, the need for multiple referrals to several committees is eliminated.

Barring subcommittee sessions anytime the House is in session is an idea without merit. Not only would this proposal eliminate substantial opportunities for the subcommittees to meet to dispose of pressing business, it would only increase the scheduling of conflicting subcommittee meetings during the limited available periods when the House is not in session.

3. The question of whether legislation within the jurisdiction of the Natural Resources Committee touches on the jurisdiction of another committee depends the mechanisms, procedures and policy established by the bill itself. Any given Committee's jurisdiction at any given time may overlap with another committee's jurisdiction depending on the terms of legislation referred to those committees.

In the present system of overlapping jurisdiction, multiple referrals are often necessary to protect a committee's significant jurisdictional interest. It would be simply unfair to Members of the existing committee--who sought their assignments in light of the committees' jurisdiction--to bypass committee consideration of issues well within the committee's responsibilities under the Rules and precedents of the House.

As I have noted elsewhere, if the House were to reform committee jurisdiction to eliminate jurisdictional overlap, obviously the need for multiple referrals would likewise be abated.

My testimony presented to the Joint Committee sets out my proposal to encourage consideration by committees of jurisdiction of legislation that is subject to multiple referral when one of the relevant committees reports the bill. While not a perfect mechanism, I believe the proposal merits consideration in the absence of full-scale reform.

5. In the absence of reform of such matters as Member assignments, bill referral procedures and scheduling, it is clear that proxy voting and rolling quorum procedures are vital to the ability of the standing committees to carry out their responsibilities. There should be no changes in these measures without the implementation of other major reforms.
6. Obviously there may well be excessive staff serving some committees and I would leave it to the Joint Committee to analyze this possibility.

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**U.S. House of Representatives**  
**Committee on Energy and Commerce**  
 Room 2125, Rayburn House Office Building  
 Washington, DC 20513-6115

June 25, 1993

The Honorable Lee H. Hamilton  
 The Honorable David L. Boren  
 Co-Chairmen  
 The Honorable David Dreier  
 The Honorable Pete V. Domenici  
 Vice Chairmen  
 Joint Committee on the Organization  
 of Congress  
 175D Ford House Office Building  
 U.S. House of Representatives  
 Washington, D.C. 20515

Gentlemen:

Thank you for your letter requesting my views on issues that arose during the hearings of the Joint Committee on the Organization of Congress. I have attached my responses to your questions.

Sincerely,

  
 JOHN D. DINGELL  
 CHAIRMAN

Attachment

1. *Should the total number of committees and subcommittees be reduced, and what should be the maximum number of subcommittees each committee can create? Also, what is the optimal number of assignments per Representative/Senator, and what can be done to prevent waivers of assignment limitations?*

As testimony before you has shown, the total number of committee and subcommittee seats in the House increased from 2,511 in 1982 to 3,177 in 1992, and the average number of member assignments increased from 5.7 to 7.2. Each of these increases would be far greater if we were to go back further. This growth is not due to a dramatic increase in the number of House committees, but rather to an increase in the number of seats on each committee, as well as a vast proliferation in the number of subcommittees.

If we are going to reform the Committee system, the way to start in the House is by reducing the size of committees and subcommittees, reducing the number of subcommittees, and limiting Members to service on no more than two committees and four subcommittees. And these changes must be strictly enforced. This will encourage Members to focus their energy and time and to develop expertise in the matters before their committees.

If Members may sit on only two committees, then over time we may be able to determine which, if any, committees should be abolished simply because Members will seek seats only on those committees that in their view do important work. In addition, any elimination of subcommittees should be done over a reasonable period of time to avoid unneeded loss of expertise. This would also mitigate the adverse effects on Members who have devoted substantial time and energy to issues but who may be unable to obtain seats on subcommittees to which jurisdiction may be given on the abolition of existing subcommittees.

This set of changes will also go far to address the complaints about the lack of attendance at committee and subcommittee meetings and the concurrent charges that the House no longer genuinely debates or deliberates on issues and that proxies are over-used. One of the most basic reasons for all of these failures is simply that Members sit on too many committees and subcommittees. As matters now stand, the ever-increasing size of committees makes it difficult to get a quorum for a mark-up -- and, not surprisingly, the Minority, which sharply limits the number of its Members' assignments, does a better job of showing up than the Majority.

2. *What can be done to decrease scheduling conflicts? For example, would it be feasible to prohibit committees from meeting when the chambers are in session, without exception?*



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**Or, would it work to allow some committees to meet on certain days, and the other committees to meet on different days?**

The scheduling conflicts in the House arise primarily because of the problem of too many committee/subcommittee assignments identified in response to Question 1. If the total number of committee and subcommittee seats are reduced, and members are thus freed to focus their attention, time, and energies on their remaining assignments, there will not be any need to try to over-manage the legislative process by centralized scheduling.

In the context of scheduling conflicts, the House should consider abolishing most Legislative Service Organizations. They not only pose a considerable cost to the House, but they also create substantial extra burdens for Members schedules. The only LSOs that should be retained should be those that, like the Democratic Study Group and the Republican Study Committee, provide a general service to a substantial portion of the Members of the House. Others which represent particular interests should not be paid for with public funds.

I strongly oppose prohibiting committees from meeting while the House is in session. The House does most of its work through the committee process. Sessions of the House include considerable business that does not require the personal attendance of Members, including such business as routine procedures, consideration of bills under suspension of the rules, and general debate. Prohibiting formal committee meetings when the House is in session would not result in Members simply proceeding to sit on the floor of the House for the entire session; but it would prevent committees from completing their important legislative and oversight work. The restriction on committees' meeting during the 5-minute rule was eliminated last January because that technicality had become a tool for obstruction and delay. I had thought this issue was settled.

I would also like to register my opposition to another suggested change: the House should not adopt a "3 on, 1 off" schedule (3 weeks of sessions followed by 1 week with no sessions). While on the surface this can seem an appealing proposal, I believe it would have a very negative effect on our ability to complete the work of the House. Many issues are addressed by Members in a variety of contexts that take place aside from floor action, formal (such as committee and subcommittee meetings) and informal (such as private checking on the views and concerns of colleagues). Yet if no floor action is scheduled, it is unlikely that Members will be in town, and these formal and

- 3 -

informal processes that are truly essential to the legislative business of the House will come to a halt as well. Moreover, while such a schedule may seem appealing or even practical in February and March, it is impossible as the end of session nears, with the usual logjam of legislation that accompanies that end. This is an idea that is simply inconsistent with the tug and pull, both formal and informal, of the legislative process. Indeed, the House ought to schedule votes on Mondays and Fridays more often. With more days in the week on which to hold hearings and markups, there would likely be fewer committee and subcommittee meetings bunching up on Tuesday, Wednesday, and Thursday.

Finally, particularly at the end of a session the scheduling of conference meetings creates numerous conflicts. To help ease these conflicts, I recommend that conference meetings be scheduled only with the agreement of both the House and Senate Chairs.

3. *Which policy issues within your committee's jurisdiction overlap with those of other committees? Also, what is your opinion of multiple referrals and the other mechanisms used to deal with cross-cutting issues?*

Disputes over jurisdiction more often than not reflect real policy differences rather than merely petty turf fights between sparring egos. To use an example that I have cited before, the Energy and Commerce and Banking Committees each had jurisdiction over the major banking reform bill in the 102nd Congress. Our two committees disagreed sharply on the extent to which banks with taxpayer-insured deposits should be allowed into the securities and insurance businesses. These were not "turf" disputes -- these were genuine differences of opinion as to how to protect the financial markets of this country. And, I must point out, these debates did not result in gridlock between the two committees. In fact, Chairman Gonzalez and I crafted a compromise that came up on the House floor as the Gonzalez-Dingell Substitute. While this legislation was never enacted, it was not because of a "turf" dispute between committees but because there was no general agreement in the House and Senate on how to address these important issues.

Some have suggested that we draw neat, tidy, and absolute lines of committee jurisdiction around various industries or issue groups. Even if this were possible in the multi-dimensional world we inhabit, such a step would weaken, not strengthen, the way the House addresses important issues. Jurisdictional tension and competition between committees, if not carried to excess, can be healthy. Simply because a

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subject fits generally in an industry sector or intellectual construct does not mean that it involves only a single expertise. The institutional memory built up by committees over time are a resource to be preserved and treasured, not erased in pursuit of some theoretical vision of how the House should work. Once gone, that memory will not easily be replaced -- and it certainly won't be replaced with the stroke of some reformer's pen.

Moreover, if an entire industry were in the jurisdiction of a single committee of the House, and that committee for whatever reasons -- bad judgment, corruption, indifference, whatever -- fails to carry out its legislative and oversight responsibilities, the consequences for the nation can be catastrophic. And there will be no easy way to recover from such catastrophe or bring to bear independent judgment and expertise to address the situation.

Most importantly, all the jurisdictional changes in the world will never substitute for strong leadership. Such leadership includes good and civil relations with the minority, which I believe we have on the Energy and Commerce Committee. We try mutually to resolve substantive disagreements in a fair and balanced way. We try mutually to have a healthy respect for each other's procedural rights and responsibilities. There are times when we must take our corners and come out fighting, but by and large, as we serve the American people, we try to accommodate all valid points of view.

Finally on jurisdiction, it is important to emphasize that it is not so much precisely where the lines are drawn that either creates or resolves jurisdictional disputes. What we really need are a greater spirit of civility and cooperation between chairmen and their staffs. Those of us who respect each other's knowledge and skill work together to avoid jurisdictional tangles. We work together early in the legislative process, sometimes even before bills are introduced, to address issues important to each other and to each committee and to avoid unproductive and bitter jurisdictional battles.

As to the problem of multiple referrals, I have three specific comments on this issue.

First, in terms of public policy, properly handled multiple referrals can help the House forge good policy. We have all seen major bills that cut across more than one committee's areas of expertise, and we have all had positive experiences working with other committees that have brought their needed expertise to bear in improving the resulting legislation. However, the process breaks down when a joint

- 5 -

referral is to a committee that refuses to consider a bill that another committee has reported. We must find a way to prevent such bills from becoming "hostages" in the joint referral process. It seems to me the proper solution is to provide that in the case of a joint referral where one of the primary committees of jurisdiction has reported the bill, the other committee or committees be given a specified time within which they must report the bill or it may proceed to the floor.

Second, when a committee decides it wants to "do" a particular issue, it often starts designing bills to avoid the real committee of jurisdiction by drafting the subject matter into Acts in its own jurisdiction having no real relation to that subject matter. I don't permit this type of jurisdictional raid with respect to subcommittee referrals in the Energy and Commerce Committee, and it should be prevented with respect to committees under the rules of the House. Members should not be allowed to "game" the system of jurisdiction and referrals by mere drafting.

Third, when there is an error in the referral of a specific bill, that error should not constitute a precedent for other referrals of the same or similar bills, a practice that merely exacerbates the problem and expands confusion as to where the jurisdiction of any committee begins and ends.

**4. *What procedural changes would improve policy making in committees?***

One issue that needs to be addressed is the problem of legislation on appropriations bills. Frequently the House and its authorizing committees are faced with situations where significant and substantive changes are made to laws through appropriations bills and conference reports. These provisions are often worked out solely by Members of the Appropriations Committee, regardless of their legislative content. Conference reports particularly often come to the floor as "must do" legislation near the end of the session, and they are considered under rules that waive all points of order. This precludes the authorizing committees, let alone individual Members, from having any real opportunity to affect the legislative provisions in their jurisdictions.

The House faces an untenable situation as a result of these procedures. Although the new rules of the House include a provision that gives the chairman of the authorizing committee a preferential motion to oppose such provisions, this change does not go nearly far enough. Members of authorizing committees will still not be Members of the conference committee. Frequently this means that the authorizing committee will have no idea of the legislative

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provisions in an appropriations conference report until the bill is on the floor. And equally important, there is nothing to prevent the Rules Committee from waiving this rule as it frequently waives the germaneness rule. Even the new notice requirements are merely Caucus rules, not Rules of the House.

I therefore continue to believe that the Rules of the House should provide that Members of affected authorizing committees should be appointed as sole conferees on legislative items in their jurisdiction that are included in appropriations bills.

A matter related to referrals is the increasingly large number of conferees and their complex appointment. We must find a way to limit the appointments to a manageable number and to simplify the appointments from multiple committees. The unbelievable size of some conferences in recent years has posed a managerial challenge that nearly prevented the House from doing its work, and certainly delayed for no good end the disposition of important legislation. Also, the larger the conference, the more likely it will be that members insert new "out-of-scope" provisions in the conference report.

Another issue that arises generally in the context of both conference meetings as well as committee consideration of bills is what I call the problem of "openness." It has been said that sunlight is the best disinfectant, and that's true. But after a certain point, too much disinfectant becomes toxic, and in my view we have passed that point in the legislative process. I can remember a time, not that long ago, when Members could gather in a room, vigorously debate the issues presented to them, hammer out tough compromises, and then bring bills and conference reports to the floor with strong support.

Today, our committees and conferences are no longer forums for genuine debate, where Members actually talk to each other and deliberate. Instead, we are busy playing to the gallery, the cameras, and the lobbyists. I think that the quality of our final product has suffered for it, and I believe that -- subject to some limits to prevent abuses -- the Rules should provide for processes that encourage Members to talk openly and candidly with one another and should discourage processes that tend only to promote grand standing, speech making, and posturing. Rule XVIII, clause (a) should be amended to permit conference meetings to be closed upon the concurrence of the chairs of both the House and Senate conferees.



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In addition, two changes that affected committee procedures that were made to the Rules of the House for the 103rd Congress should be retained: quorums during roll call votes in committee should be determined solely on the basis of whether a Member answered to his or her name in person and on the record, and not on the basis of arguments over extra-record evidence of who was where at a specific moment in time, which is untenable; and committees should continue to be permitted to meet during consideration of amendments by the House under the 5 minute rule.

**5. *Should committee staff levels be reduced, and if so, how? Also, how should a committee's staff and funds be divided?***

While some committees and subcommittees may have too many or too little qualified staff, this is not the case for the Energy and Commerce Committee, and, I am sure, for other committees as well. On the Energy and Commerce Committee, our staff has enabled us to do many things. With the help of our staff, we were able to return \$2 billion to the taxpayers from the sale of Conrail, a full billion dollars more than what the Administration proposal would have netted. Our oversight staff has saved the Treasury and consumers billions more, and has helped us ensure that there would be no securities scandals that went uninvestigated or unpunished by the SEC. Our legislative staff has ensured that when major new laws were needed to ensure the safety and soundness of our securities markets, the adequacy of our energy supplies, or the protection of our environment, such laws were drafted, negotiated, and enacted.

In looking at the number of committee staff that serve the House, I think it is particularly important to remember that we set policies for the functions and laws that are implemented by the entire Executive Branch, with its more than 2 million civilian personnel. Therefore, I strongly believe that any proposal for reduction of committee staff should be made on the basis of a specific analysis of their functions, and not in some across-the-board "meat ax" fashion. The goal should be to make sure that the House has enough and the right kind of staff to effectively perform its constitutional functions.

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June 1, 1993

100-000000

Honorable John LaFalce  
 Chairman, House Small Business Committee  
 Washington, DC 20515

Dear Chairman LaFalce:

Thank you for your excellent testimony before the Joint Committee on the Organization of Congress.

Enclosed are post-hearing questions related to your testimony during our Committee Structure hearings. We would appreciate receiving the responses you consider appropriate by June 25, 1993, so that we may include them in the printed record of these hearings.

Again, thank you for your testimony. Your input was greatly appreciated and we look forward to receiving your responses to these post-hearing questions. If you or your staff have any questions, please contact Mr. Kim Wincup, Staff Director, at 226-0650.

Sincerely,

  
 David L. Boren  
 Co-Chairman

  
 Pete V. Domenici  
 Vice Chairman

60651  
  
 Lee Hamilton  
 Co-Chairman

  
 David Dreier  
 Vice Chairman

Enclosure

#### RESPONSE TO QUESTION CONCERNING NUMBERS AND ASSIGNMENTS

As I stated in my testimony, I do believe that Members have too many assignments. I am not sure that there is an "optimum" number, but my recommendations did include specific suggestions on how to reduce the assignments we receive. While my testimony addressed the situation in the House, I believe that this problem is as bad, if not worse, in the Senate.

Specifically, I recommended limiting the size of committees in the House to no more than 30 or 35 Members for "major" committees and 20 or 25 Members for "non-major" committees. I also suggested that there be no more than five subcommittees for "major" committees and three for "non-major" committees. I further suggested that subcommittees be limited to no more than a proportionate share of the committee's total size to the number of subcommittees (e.g., the limit on subcommittee size for a committee with five subcommittees would be no more than 20% of the full committee's membership).

As to your question about how to prevent waivers of these or other limitations, I have no real answer except to say that we need strong leadership in an institution like Congress, and without it any reform will be of dubious value. In the final analysis, however, self-discipline within the institution is the final answer -- anything that either House can do can presumably be undone.

#### ANSWER TO QUESTION ON SCHEDULING CONFLICTS

In my testimony I touched on the possibility of setting aside certain days of the week for meetings by various types of committees as one way of reducing scheduling conflicts. But I also believe that meaningful limitations on the number of assignments would itself go far toward reducing schedule conflicts, at least as far as overlapping committee meetings are concerned.

#### RESPONSE TO QUESTION ON COMMITTEE JURISDICTIONS

There may be some areas where jurisdictional overlap has contributed to Congressional inefficiencies. I do not believe that there are many such instances, nor that solving them will produce particularly noticeable gains in efficiency. I do believe that there should be some reform of multiple referrals so as to make it more difficult for committees with partial jurisdiction over an issue to thwart the ability of the whole House (or Senate) to work its will on that issue.

#### RESPONSE TO THE QUESTION ON PROCEDURAL REFORM

Again, my view is that if we bring about a substantial reduction in the number of assignments we will have achieved major reform, and any additional steps should be put off until we

can analyze the effects of reduced assignments. Quorum requirements and proxy voting are among the items that I would put in this category. As to questions about adequacy of Committee reports, etc., I would point out that we can try to legislate competency, but we won't succeed.

ANSWER TO QUESTION ABOUT STAFFING/FUNDING

Committee staff sizes can probably be reduced somewhat. We should be careful not to go too far, however. Congress needs to retain its ability to ascertain facts on its own; it would be dangerous for Congress to become overly dependent on the Executive Branch for information, no matter who might hold the White House from time to time.

## ONE HUNDRED THIRD CONGRESS

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## House of Representatives

Committee on Post Office  
and Civil Service

Washington, DC 20515-6243

TELEPHONE (202) 225-4054

June 23, 1993

The Honorable Lee Hamilton, Co-Chairman  
 The Honorable David L. Boren, Co-Chairman  
 The Honorable David Dreier, Vice Chairman  
 The Honorable Pete V. Domenici, Vice Chairman  
 Joint Committee on the Organization of Congress  
 Room 175D Ford House Office Building  
 Washington, D.C. 20515

Dear Colleagues:

This refers to your letter of June 1, 1993, requesting my responses to several questions relating to the structure of committees, scheduling conflicts, and legislative procedures.

Question 1 relates to the number of committees, subcommittees, and Members' assignments. As I stated during my appearance before the Joint Committee on April 29, I do not see the necessity for eliminating any committees of the House. The fact that the House has more Members and, therefore, is able to have more committees is, in my view, a distinct advantage. The committee structure of the House affords House Members the luxury of being able to specialize in specific subjects and to explore those subjects in greater depth than our colleagues in the Senate.

With respect to Members' assignments, I believe that many of our problems could be solved by limiting Members to no more than two committee assignments. I believe that the current system in the House of classifying committees as exclusive, major or non-major is appropriate and necessary. Those Members who are not assigned to an exclusive committee should be limited to service on one major and one non-major committee or on two non-major committees, and there should be no exceptions to this rule. Concerning a further reduction in the number of subcommittees, I believe that such a reduction could produce the desired effect only if Members are limited to service on two committees, as suggested above. If committees were limited to establishing only four subcommittees, but Members were allowed to serve on more than two committees, many committees still would have difficulty in filling all of their subcommittee slots.



Question 2 concerns the elimination of scheduling conflicts. In general, I would say that many of our scheduling problems could be resolved by limiting the number of committee and subcommittee assignments, as discussed in my response to question 1, above. With respect to other proposals, I do not believe it would be at all feasible to bar committee or subcommittee meetings whenever the House is in session. Given the consistently busy schedule of the House, I do not believe that the committees would be able to fully carry out their responsibilities if such a prohibition were in effect. On a related point, I am in favor of allowing committees to meet during proceedings under the "5-minute rule." This amendment to the House rules, adopted at the beginning of this Congress, has enabled the committees to conduct their business in a more predictable and effective manner.

One proposal that I believe could have a significant effect on scheduling conflicts is to designate a certain day of each week on which only major committees could schedule meetings and a different day of each week on which only non-major committees could meet. This would assure most members that on those designated days there would be few or no conflicts between their two committee assignments. In addition, I suggest that on those two designated meeting days, the House leadership ensure that the House will not convene prior to noon.

Question 3 concerns committee jurisdiction. The Committee on Post Office and Civil Service does not have a significant problem with respect to overlapping jurisdiction. There is some overlap of jurisdiction with the Committee on House Administration in the area of pay and benefits applicable to Members and Congressional branch employees. Also, in certain areas, such as General Accounting Office personnel issues and travel and transportation benefits of Federal employees, the Committee's jurisdiction overlaps with that of the Government Operations Committee. This Committee's biggest problem is convincing other committees of the House to refrain from including in their reported bills provisions which fall within the jurisdiction and, therefore, the expertise of this Committee. While our efforts usually are successful, there are occasions when our sole protection lies in our ability to request a sequential referral of the reported bill. I believe a committee's right to request sequential referral in such situations is essential, and I strenuously urge that such right be retained.

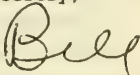
Question 4 relates to committee procedures. I do not see the need for any drastic changes in the procedures applicable to committees of the House. The right to vote by proxy in committee meetings is necessary, and should be retained, as long as scheduling conflicts are unavoidable. Members should not be denied the right to cast their votes on important issues when the demands of their schedules preclude their attendance at committee meetings.

Also, I would not support any change in the so-called rolling quorum provision at this time. Since this provision has been in effect for only six months, I believe any proposal to amend or repeal the provision would be premature.

Question 5 relates to committee staffing levels and methods for allocating committee funds. I do not believe that the total Committee staffing level should be reduced. Cutting staff levels for the sake of cutting staff levels is a bad idea that would seriously impair the ability of the United States Congress-- its members and its committees-- to carry out its legislative and oversight responsibilities. It is unthinkable that the United States Congress would cut back on its capacity to deal with the Nation's problems at a time when American society grows larger and more diverse, its problems more daunting and deeper, and its technological-industrial society more complicated.

With regard to the question of how a committee's resources should be divided, I hesitate to recommend any one particular way to divide committee staff and funds because the characteristics of each committee, that is, its jurisdiction, its size, its funding, etc., vary. The most optimal way to divide staff and funds may vary for each committee. As a general matter, my view is that the chairman of the full committee should evaluate the needs of the full committee, the subcommittees and the minority every fiscal year and recommend an appropriate allocation. There should be full realization that while the subcommittees, the minority and rank and file members contribute to the work of a committee, it is the full committee that is ultimately responsible for the smooth operation of both the administrative and legislative functions of the committee, and therefore is in the best position to allocate resources rationally.

Sincerely,



WILLIAM L. CLAY  
Chairman

NORMAN Y. MINETA, California  
Chair

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RICK JOE RAGALLI, Jr. West Virginia  
DOUGLAS APPELGATE Ohio  
RONNIE LUGO Virgin Islands  
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PAUL SCHOELLHAMER, Chief of Staff  
SANTA ESPERTO, Chief Counsel

## U.S. House of Representatives COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

SUITE 2165 RAYBURN HOUSE OFFICE BUILDING  
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June 14, 1993

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Honorable David L. Boren  
Co-Chairman  
Joint Committee on the  
Reorganization of Congress  
House of Representatives  
Room 175D Ford House Office Building  
Washington, DC 20515-6775

Dear Co-Chairman Boren:

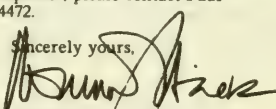
Thank you for giving Congressman Bud Shuster and me the opportunity to testify before your Committee on May 6, 1993. I know that we both enjoyed discussing issues of congressional reform with your Committee Members.

I would also like to thank you for your June 1, 1993, letter of post-hearing questions. Attached are my responses, which build upon my earlier oral testimony and our joint statement.

The task before you is as important as it is difficult. Whatever can be done to improve and strengthen the workings of Congress, particularly its committee structure, will repay your efforts many times over in the improved ability of this institution to resolve the important legislative issues before it. In that regard, I hope that my observations and suggestions prove useful to you.

Again, thank you for providing me the opportunity to present my views to the Committee. I look forward to following your deliberations. In the interim, if you have any questions regarding my oral testimony, joint statement, or post-hearing question responses, please contact Paul Schoellhamer, Chief of Staff, at 225-4472.

Sincerely yours,

  
NORMAN Y. MINETA  
Chair, Committee on  
Public Works and Transportation

NYM:sje/srl

1. *Should the total number of committees and subcommittees be reduced, and what should be the maximum number of subcommittees each committee can create? Also, what is the optimal number of assignments per Representative/Senator, and what can be done to prevent waivers of assignment limitations?*

In considering the issue of the number of committees, I believe that the overriding objective is to produce committees which are divided as much as possible along lines which will minimize the problems of multiple, overlapping, and confused jurisdiction. We should do that first, then see how many committees we have and which ones, if any, we have eliminated. There is no "right" number of committees. What we need are committees whose jurisdictions are divided, as much as possible, along the lines of the issues we have to consider. That should be the objective, and let the number of committees fall where it may.

In my view, this is exactly what Ornstein and Mann attempted to do. And the result, as they testified to you, was a slight reduction in the number of standing committees, including specifically the elimination of the Merchant Marine and Fisheries Committee, the Small Business Committee, and the Veterans Committee. Whether or not their specific result is the right one, they clearly had the right objective.

Regarding the question of the number of subcommittees, I'm aware of the arguments for reducing subcommittees. However, I would note that the House recently changed its rules to further limit the number of subcommittees each committee can have and the number of subcommittee assignments each Member can have. We need to evaluate the extent to which these changes have already dealt with the problem before we decide how much more of a "cure" we need. I would note in particular that our six subcommittees on the Public Works Committee are not at all excessive, and I know of no who argues that they are. More importantly, we should not kid ourselves that further adjustment of the number of subcommittees is going to have any significant impact on our ability to get our work done. The real impediments to doing our jobs are overlapping and confused jurisdictions, *not* the number of subcommittees. The priority should be on making better sense of committee jurisdictions and realigning committee jurisdiction along functional lines.

2. *What can be done to decrease scheduling conflicts? For example, would it be feasible to prohibit committees from meeting when the chambers are in session, without exception? Or, would it work to allow some committees to meet on certain days, and the other committees to meet on different days?*

Many of the scheduling ills of Congress are not attributable solely to committees and to the committee structure. Although I believe that the committee structure needs to be modified to perform its functions better, I do not believe that the current committee structure is the cause of Members' scheduling conflicts and that modification of that structure will provide a cure.

Much is said of the overloaded schedules of Members, and how often we are scheduled to be in two or more places at once. We all know that overscheduling is a fact of life here. What is less credible is that this is somehow caused primarily by the committee structure. Overscheduling is a function of the responsibilities of being a Member of Congress, and there is nothing we can do to committees that will relieve overscheduling entirely. Whether we cut the number of committees in half or double the number of committees, Members will still be overscheduled.



Furthermore, even if one does focus on overlapping committee meetings and committee and Floor sessions, suggestions for decreasing conflict are not readily apparent. Because most legislative weeks in the House extend from Tuesday noon until sometime Thursday, prohibiting committees from meeting when the chamber is in session would not be feasible. Also, since that very same legislative schedule drives committees to meet mid-week, the option of committees' meeting on different days may not be workable because choices are limited.

3. *Which policy issues within your committee's jurisdiction overlap with those of other committees? Also, what is your opinion of multiple referrals and the other mechanisms used to deal with cross-cutting issues?*

Reform of the current committee system, specifically jurisdictional realignment, is probably the most challenging issue facing the Joint Committee, and it is the most important task you could perform to enable Congress to better resolve issues and accomplish its work. Consolidating and partially realigning committee jurisdictions along functional lines, guided by the principles of rationality and exclusivity, would provide for more comprehensive consideration of major issues resulting in better policy-making, oversight, and foresight. The current formulation of transportation and water pollution policies illustrate the problems of multiple, overlapping, and just plain confusing committee jurisdictions.

The Committee on Public Works and Transportation is the Transportation Committee of the House. Although we have jurisdiction over surface, inland water, and air transportation, we don't have jurisdiction over marine transport or railroads. We can legislate on the ports through which goods come in, on the trucks that carry those goods inland, and the roads and bridges over which the trucks travel, but not on the vessels that come into the ports or the railroads that transport those goods. Every action we take in one mode of transportation affects other modes, and those intermodal effects should be faced by one committee, rather than having one committee champion one mode as its special interest and another committee champion another mode. Ornstein and Mann recommend making rail and marine transport part of the Committee on Public Works and Transportation, and I agree.

Similarly, we truly have one national waterway system in our country. Water, and the pollution it carries, flows constantly and naturally between rivers, lakes, groundwater, estuaries, and coastal waters. Currently, the jurisdiction over water pollution issues is based on the location of the pollutant. For example, we have one legislative scheme for non-point runoff pollution draining into coastal waters and another for the rest of the country. Given our integrated national water system and the importance of developing a comprehensive water pollution policy, one committee should develop water policy. I believe that the Public Works and Transportation Committee is best-suited for this purpose because of its vast experience with water issues including jurisdiction over inland water transportation, flood control, and most of the existing water pollution programs, notably the Federal Water Pollution Control Act. It is particularly important that water transportation issues, such as improvements to navigation and harbors, not be separated from other water issues, since in practice the use and modification of waterways for transportation is one of the major impacts human activity imposes on the waters of the U.S.



The rising trend in multiple referrals is symptomatic of the problem of trying to fit these and other current issues into the increasingly outmoded boxes of a committee system essentially built nearly half a century ago. Of all the measures introduced in the last Congress — bills, simple resolutions, joint resolutions, concurrent resolutions — 17.9 percent were referred to more than a single committee. The proportion of multiple referrals has nearly tripled since they were first allowed in the House less than 20 years ago.

Moreover, the concept of shared jurisdiction has taken on new meaning. Initial referrals, sequential referrals, and the appointment of conferees all err on the side of being more inclusive rather than less. H.R. 2199, dealing basically with the reauthorization of the Clean Water Act, provides a poignant example. H.R. 2199, which was introduced on May 20, 1993, is 34 pages long, but it also contains a mere 25 lines dealing primarily with coastal estuaries. While the Clean Water Act is the sole jurisdiction of the Public Works and Transportation Committee, the 25 lines having to do with clean water issues as they relate to estuaries are in the jurisdiction of both the Committees on Public Works and Transportation and Merchant Marine and Fisheries and triggered a joint referral of the entire bill to both committees. By deleting the 25 lines and reintroducing the rest of the bill as H.R. 2255 (see Congressional Record, p. E1356, May 25, 1993), I was able to demonstrate that no other features of the bill involve the Merchant Marine Committee (and there was in fact no referral of H.R. 2255 to Merchant Marine).

The rising number of multiple referrals has led to wasteful duplication of effort, slowdowns in the legislative process, jurisdictional bickering among committees, a lack of accountability, and constant negotiations among competing and contradictory positions and claims. The bottom line is that most multiple referrals have hindered the legislative process and the laws that process has developed.

In conclusion, the Joint Committee should realign committee jurisdiction along functional lines, guided by the principles of rationality and exclusivity, to provide for more comprehensive consideration of major issues. For instance, one House committee should have jurisdiction over all modes of transportation and one House committee should have jurisdiction over all elements of water pollution and water transportation. I believe the Committee on Public Works and Transportation is best-suited to consider these issues. Moreover, by realigning committee jurisdiction along functional lines, the need for multiple referrals and other mechanisms used to deal with today's problems in an increasingly outmoded committee would be severely circumscribed. These changes would enable us to do what we sent here for — to develop policies for our country and communities which effectively consider all aspects of each issue and look to the future of our nation.

4. *What procedural changes would improve policy making in committees?*

Committees of the House are unique not only in terms of what they deal with but how they operate. Each brings its own tradition and internal dynamics to consideration of issues. Each committee is driven by differing political pressures — both from within and without. Thus, what works for one committee may not work for another.

For years, the Committee on Public Works and Transportation has enjoyed great success within its committee system. To my knowledge, I'm not aware of any procedural change critical to our operation.

I do think, however, that we shouldn't lose site of the bigger issue. What the public cares about is not our internal procedures, but our ability to deliberate, to hear all sides of an issue, to set our agenda, and then to act. They neither know nor care how committees work, and they are right in assigning no importance to this question.

What does dramatically effect our ability to do what the public wants us to do – to deliberate, to hear them, to set an agenda, and to act – is the question of how well the alignment of committee jurisdictions matches up to the real world issues we are asked to resolve. To the extent the issues of the day fit more or less neatly into the "boxes" of committee jurisdiction, this House can get on with the work at hand, which is to resolve those issues. To the extent the issues of the day do not fit into one committee box or another, or that it is unclear which is the proper box, the committee system too often bogs down in jurisdictional struggles and game playing, often distracting us from the substantive issues involved and delaying or ultimately blocking us from resolving anything.

Again, the most important task we could perform to enable this institution to resolve the issues put before it, therefore, would be to align committee jurisdictions as nearly as possible. This is important not simply because neatness matters, but because this change would do more to improve the ability of Congress to accomplish its work than any other change, including internal committee procedural reforms.

5. *Should committee staff levels be reduced, and if so, how? Also, how should a committee's staff and funds be divided?*

Committee staff levels generally are not excessive, especially when we consider that much of the substantive work of Congress is performed by committee staff. However, there are specific areas where staffing is excessive. In particular, associate staff should be reduced.

Over the last seven years we have witnessed an increase in the number of committees which have associate staff members as well as the number of associate staff per committee.

For example, the House Appropriations Committee now has about 119 associate staff, more than most committees have total staff. Until a few years ago, each Member of the Appropriations Committee was allowed one associate staff member. Today, each Member of Appropriations is allowed two associate staff while most committees don't have any. I think it would be reasonable to limit any committee to one associate staff per Member. Applying this limit solely to the Appropriations Committee would save more than \$4.5 million per year.

Associate staff reductions could be achieved by reducing the number of committees that employ such staff; limiting associate staff to a few Members of a committee, for example, subcommittee chairs; capping associate staff pay at a reduced level, etc.

Regarding committee funds, each committee needs to have one budget, one fiscal year, one payroll. That is just common sense. There is no reason why each committee's budget is scrutinized twice per year on the Floor of the House, while all the rest of legislative spending is scrutinized once per year.

Exactly how that should be accomplished is less clear. One idea would be to have the House Administration Committee, instead of reporting their funding resolution to the House Floor, incorporate their funding recommendations for each committee into the legislative appropriations bill, and have their product cover all of the funding for all of the committees.

Also, as it now stands, committee budgets are on a "use it or lose it" system — funds have to be used within an allotted time from each specified budget. We should allow committees to carry over unused funds from one session to the next and to transfer funds between budgets, if we have failed to eliminate separate budgets. This would encourage efficiency and innovation within a committee's operations, and promote long-term planning for implementing a committee's agenda.

SENATE BUREAU  
WASHINGTON, D.C.

00 JUN 24 AM 11:47

June 17, 1993

Congress  
of the  
United States  
House of Representatives

H. MARTIN LANCASTER  
NORTH CAROLINA  
THIRD DISTRICT



The Honorable David Boren  
Co-Chairman  
Joint Committee on Organization of Congress  
United States Senate  
Washington, D. C. 20510

Dear David:

I regret that I did not ask for time to appear before your Committee, but as you wrap-up your work, please let me suggest something for you to consider which has probably been suggested by others. When there are a limited number of leadership positions to be shared in Congress, I believe that it is unfair for one person to be Chairman of multiple committees/subcommittees. Limiting a person to one chairmanship of their choice would not only spread the responsibility around, but I believe would result in better leadership of all of the committees/subcommittees. A person trying to chair more than one committee/subcommittee cannot give the attention that one focusing all of their attention on one committee/subcommittee could. Of course, with the leadership potential of chairing a committee/subcommittee also goes the right to employ staff, help one's colleagues with hearings, etc.

Thank you for considering this additional suggestion and also for the work that you are doing.

With kindest regards, I am

Sincerely yours,

H. Martin Lancaster  
Member of Congress

HML:tgy

At-Large Majority Whip  
Committees:  
Armed Services  
Merchant Marine and Fisheries  
Small Business

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## UNIVERSITY OF MARYLAND AT COLLEGE PARK

COLLEGE OF BEHAVIORAL AND SOCIAL SCIENCES • DEPARTMENT OF GOVERNMENT AND POLITICS

June 12, 1993

The Honorable David L. Boren, Co-Chairman  
Joint Committee on the Organization of Congress  
Room 175D, Ford House Office Building  
Washington, DC 20515-6775

Dear Senator Boren:

Thank you so much for your recent letter concerning my testimony before the Joint Committee. It was a pleasure to appear before the Committee to discuss issues of committee jurisdiction and operations.

I am pleased to respond to your request to elaborate upon two points raised in my testimony. Although your letter unfortunately did not reach me in time to meet the deadline you suggested, I hope my comments may nonetheless be helpful in the Committee's deliberations.

### 1. TIMING OF RECOMMENDATIONS FOR COMMITTEE JURISDICTIONS, SIZES, AND ASSIGNMENT LIMITATIONS.

If the Joint Committee elects to tackle these questions, I would suggest that you do so right away and include very specific recommendations in your report. Given the political hazards of dealing with these questions (especially in the House of Representatives), the Joint Committee should be prepared to advance a plan that promises real improvements in addressing major policy problems and rationalizing members' schedules.

The reorganization should be effective with the 104th Congress. Two processes would occur during the 2nd session of the 103rd Congress. First, detailed negotiations would need to take place in the two chambers, presumably within the respective rules committees before the package reached the floor. As I stated in my testimony, this brokerage -- with active leadership involvement -- was a major ingredient of the success in 1977 of the Stevenson Committee's Senate plan. Second, plans could be prepared for implementation in the 104th Congress -- remembering that this means that the plans would need to be in place for the early organization caucuses in December 1994.

Although it is true that this time lag might encourage backsliding, I would suggest two devices to counteract that tendency. First, there should be strict deadlines for the rules panels to report their plans, and for completion of floor deliberations. Second, Joint Committee members from the two chambers should remain an active presence in the negotiating process. This could be done by reconstituting the Joint Committee's House and Senate members, respectively, as task forces without regular staff members.



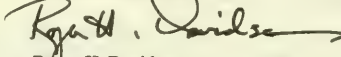
Boren letter / 2

2. ADMINISTRATIVE IMPACT STATEMENTS.

These statements, which might well be incorporated in committee reports accompanying the legislation, would address such questions as: Can the objectives of the proposed legislation be realized by normal and efficient administrative means? What additional staff, administrative structure, paperwork, or record keeping would be required to implement the congressional mandate? Does the proposed legislation require excessive administrative discretion to implement? Does the proposed legislation duplicate or contradict existing federal requirements? Does the proposed legislation duplicate or conflict with the mandate of other federal agencies? How will Congress be able to measure the administrative costs and burdens imposed by the proposed legislation? It seems to me that committees ought to devote more attention to such questions, by explicitly including them in hearings and by consulting outside management experts (the National Academy of Public Administration comes to mind).

I hope these further comments will be helpful to you and to the Joint Committee. I think the Joint Committee's success is of critical importance to the future of Congress, and I would be happy to assist further in any way I can.

With best regards,

A handwritten signature in dark ink, appearing to read "Roger H. Davidson", with a long, sweeping horizontal stroke extending to the right.

Roger H. Davidson  
Professor

## HEARING SUMMARY, MAY 18, 1993

Seven Witnesses: House Parliamentarian William Brown, Senate Parliamentarian Alan Frumin, Lloyd Cutler, Hyde Murray, Pete Robinson, William Hildenbrand, and Murray Zweben.

Panel Presentation by House Parliamentarian William Brown and Senate Parliamentarian Alan Frumin

House Parliamentarian William Brown

Opened by describing the evolution of the referral process. When he first came to work for the House in 1958 the process of referring legislation to committees was much simpler. Any overlaps in committee jurisdictions were less problematic because referrals were made on the basis of predominant jurisdiction. The reforms made in 1974 allowed for, and even encouraged, multiple referrals, but proposed changes in committee jurisdictions necessary to minimize overlaps were not adopted. As a result, multiple referrals became commonplace. Today the referral process operates under the implicit assumption that committees will assert a claim to legislation within their jurisdiction. Referrals, therefore, are made in part on the basis of claims established by committees, and not by independent judgements made by the Speaker or Parliamentarian's office.

Multiple referrals can cause the legislative process to bog down, although judicious use of either special rules from the Rules Committee or suspension motions to discharge committees from consideration can make the process work even in the face of inaction by one committee. Rule X also provides sufficient authority to the Speaker to make the process work, but the process really only works when the Speaker is directly involved in the setting of a coordinated legislative agenda.

Stated that as the Parliamentarian, he should not act as an advocate for any specific reforms. However, observed that the process would be facilitated if more Representatives were more familiar with the rules of the House and their operation. One useful effort towards that end would be the recodification of the rules to eliminate archaic references and improve clarity.

Senate Parliamentarian Alan Frumin

One fact that has been impressed upon him from the beginning is how the House and Senate are very different. Any proposals or recommendations should acknowledge the continuation of that difference.

Much of the concern in the House with referral of legislation to committees is moot in the Senate because they operate under a system of predominant jurisdiction. In the past multiple referrals were more common, and were made primarily through unanimous consent requests. The reforms made following the

recommendations of the Stevenson committee in 1977 established a process whereby multiple referrals could instead be made by motion, but ironically this caused the practice to decrease and the motion has not been used. There are some standing orders of the Senate which provide for multiple referrals, notably for the Budget and Governmental Affairs Committees to share jurisdiction over the budget process, but such cases are limited.

He echoed Mr. Brown's position that the Parliamentarian's office shouldn't be in the position of advocating changes, but added that he was willing to offer comments on any recommendations.

### Chairman Boren

Stated that this was the first time that both the House and Senate Parliamentarians had testified jointly before a congressional committee. While Mr. Brown's predecessor, Louis Deschler, had testified before the 1945 Joint Committee on the Organization of Congress, it was believed to be the first time that a Senate parliamentarian had provided testimony.

Posed a general question about whether changing circumstances had changed the way in which the rules of the Senate worked. Wondered if there was less self-restraint in invoking personal senatorial privileges, such as in the use of the filibuster, and had an increase in scheduling conflicts exacerbated the situation.

### Questions and Answers

Emerson: How might legislative business flow more smoothly in the House?

Brown: The question of what makes for a smoother, more efficient process is difficult to answer since it was not likely to be understood the same way by all Members. In my view, clear application of the rules of the House as they are understood constitutes fairness, but that fairness, too, is often in the eyes of the beholder. Arbitrariness in interpretation is the basis for unfairness in a procedural sense.

Predictable interpretation is one of the factors that makes the process work. This workability, in turn, made other countries, especially countries trying to write new constitutions or establish new governments, want to emulate the U.S. Congress.

Allard: The founding fathers spoke in terms of fairness for the minority. How might that be promoted today?

Brown: One thing in particular would be for more spontaneous debate; debate not controlled by committees managing the legislation on the floor.

Spratt: The Joint Committee has heard from other witnesses, such as Thomas Mann and Norman Ornstein, who spoke in favor of facilitating major debates such

as the debates prior to the Persian Gulf War in 1990. What are your thoughts regarding such proposals?

Brown: Members would probably respond favorably. One-minute speeches or special orders could easily be structured to accommodate debates on major issues when necessary.

Frumin: I agree. But no changes to the rules are really necessary since they do not currently preclude such debates from occurring.

Spratt: Do multiple referrals and jurisdictional overlaps slow down the process?

Brown: Yes, part of that is due to the fact that jurisdictional language in the rules is sometimes ambiguous.

Walker: What prevents the Parliamentarian's office from becoming a tool of the majority leadership?

Brown: The Parliamentarians make every effort to be independent and to work with Members from both sides of the aisle.

Walker: What about confidentiality?

Brown: It is strictly observed.

Reid: What is the biggest waste of time in the Senate?

Frumin: I hesitate to offer an answer. However, quorum calls are probably the clearest offender. Quorum calls are used for two basic reasons: 1) for the convenience of Senators, to extend them the courtesy of suspending proceedings until they can be present, or allow them to negotiate off the floor and 2) to delay, even when it is merely a dilatory tactic. To try to control the use of quorum calls for either reason would be problematic, because it would be impossible to separate "good" and "bad" usage.

Reid: The House generally amends bills section-by-section, the Senate usually allows measures to be open to amendment at any point. Would there be a way for the Senate to adopt the House's mode of amending?

Frumin: Probably not. The lack of a germaneness rule in the Senate would render any attempt to go through a bill section-by-section meaningless since Senators would still be able to offer any amendment they wanted, even if they couldn't choose what section to offer it to.

Dreier: Are there any areas of jurisdictional overlap where the problem is particularly acute?



Brown: There are a lot of areas, such as environment, which are problematic. Also of concern is the way in which nongermane Senate amendments can sometimes be used to expand committee jurisdictions in the House. Having members of a committee included in a conference delegation for limited purposes is often used to justify subsequent referrals of legislation in new, broader areas.

Dreier: Is the rule providing for a 3-day layover waived too often?

Brown: The underlying rule is realistic: Members should have the opportunity to review legislation prior to consideration. But the leadership in both parties may find it in their interest to bring legislation to the floor more quickly.

Dreier: Can you give your views on the controversy over the motion to recommit?

Brown: Although the availability of the motion to recommit with instructions has engendered controversy, the precedents have been followed. To make any further comment on the fairness of the rule or its application would not be appropriate.

Boren: How could committee assignment limitations be effectively enforced?

Frumin: No new mechanism would really be necessary. The existing process provides for waivers of current limits by resolution, so the Senate decides to allow waivers. If the Senate did not approve such resolutions the limits would be observed.

Boren: Would providing for assignment limits in statutory language be a stronger restraint?

Frumin: Probably not. The Constitution allows each chamber to make its own rules so that statutory language would not by itself be likely to present a more difficult hurdle.

Boren: Would it help to heighten awareness of the waivers?

Frumin: Possibly, but action by unanimous consent can obviate any effort to heighten awareness.

Boren: Would it be possible to prohibit the use of unanimous consent in such circumstances?

Frumin: Probably not. The Senate could agree to waive the prohibition and then unanimous consent would again be available as a mechanism.

Boren: Maybe what's necessary is to require unanimous consent to agree to a waiver of the assignment limit. What about the problem of revisiting the same issue repeatedly? Can anything be done?



Frumin: Again, the current rules, particularly the ability of Senators to offer nongermane amendments, work against such a limitation. It might also prove problematic to determine when an issue was resolved.

Reid: How could the number of committee assignments be more effectively limited?

Frumin: The current procedure could be reinforced by establishing a point of order against a resolution making committee assignments above the limit specified in the rules.

Reid: What about subcommittee assignments?

Frumin: Subcommittee assignments are decided at the committee level, not by the Senate as a whole, so that it is not clear what kind of sanction could be applied.

Allard: Would it be possible to establish joint rules, particularly for conference procedures?

Brown: It would be possible, but each chamber would retain the ability to waive such rules unilaterally.

Allard: Would it be possible to establish some type of joint waiver requirement?

Frumin: It would be very difficult.

#### Chairman Boren

Introduced Mr. Cutler, and commented on the current running debate on the filibuster, particularly Mr. Cutler's role in it. He also stated that such a debate was symptomatic, and quoted Senator Mitchell as saying that for those unfamiliar with the Senate the rules are arcane and the precedents incomprehensible, and for those familiar with the Senate the rules are arcane and the precedents incomprehensible.

#### Lloyd Cutler

Stated that the use of the filibuster was addictive, and that in recent years it had begun to get out of hand. He made the contention that the provision in Rule XXII to allow debate to continue indefinitely unless a supermajority vote could be mustered to invoke cloture was unconstitutional. This contention rested heavily on the requirement in Article I, section 5 that a majority constitute a quorum to do business. Accordingly, a rule which requires a supermajority to bring a matter to a vote (that is, conduct business) could not be constitutional because a rule cannot supersede the Constitution. In his statement he also pointed to other constitutional and historical evidence to support this contention.

He further contended that because the Supreme Court was unlikely to decide or even hear such a question, the Senate had a responsibility to decide for itself.

### Questions and Answers

Boren: How would debate on a constitutional question be conducted? Could it be filibustered?

Zweber: [approached the witness table] Constitutional questions are not decided by the presiding officer, but are submitted to the Senate to decide. Whether or not it could be filibustered would depend on the circumstances in which the question arose, but there would probably be no procedural constraint on filibustering such a question.

Cutler: A filibuster would be unlikely, even if possible, because the need for decision would be important enough to assure it.

Allard: Would it be possible to establish joint rules?

Cutler: Probably, but formal joint rules are not the only possible method. There are a number of provisions, such as in the Congressional Budget Act and fast-track trade agreements, which yield the functional equivalent of joint rules.

Lugar: A constitutional question concerning Rule XXII does not reflect the totality of why Senate rules exist or how they operate. The tradition of allowing unlimited debate also plays a role. In fact, the threat of a filibuster is more prominent than its actual use. Also, there is a very real possibility that a constitutional debate on Rule XXII might be filibustered.

Cutler: The filibuster has been used for a wide variety of purposes, from the personal to the partisan, by a variety of Senators. This does not negate the constitutional question, because the question of constitutionality exists independent of any tradition.

Sarbanes: Recent discussions of the filibuster have sometimes included suggestions that the way to combat filibusters is to force Senators to filibuster by debate; that this would place an inordinate burden on them and, thus, result in fewer filibusters. In fact, in cases where the filibuster is conducted by more than a couple of Senators it would be easy for them to hold the floor in shifts, placing the preponderance of the burden on those Senators who oppose the filibuster since they must maintain a quorum in order to prevent the Senate from adjourning.

On the subject of the running debate in the op-ed pages of the Washington Post, how do you respond to conflicting assertions, such as those concerning the use of a filibuster in the First Congress?

Cutler: The Senate may have used extensive debate in the First Congress, but there was no filibuster. In fact, the Senate had a motion for the previous question (which could end debate by majority vote) until 1806.

Emerson: Are all supermajority requirements or unanimous consent agreements constitutionally suspect?

Cutler: No. There would be no bar to such mechanisms if their purpose was expedience rather than simply a barrier to action.

Emerson: What about the practice of holds?

Cutler: The practice of holds developed out of a live and let live attitude of accommodation as well as the threat of a filibuster.

Dreier: What about supermajority requirements in the House?

Cutler: Supermajority requirements which could delay action, but not prevent it, would be okay. Suspension of the rules requires a two-thirds majority to succeed, but failure to achieve that two-thirds would not prevent the House from acting, only from acting in one way. With Rule XXII, the relevant question is constitutionality, not utility.

Domenici: I had not previously elevated this to a major constitutional question, and don't feel that it has much merit. In any case, it is doubtful that the Supreme Court would agree to consider the question.

Sarbanes: The question does have merit. The use and threat of filibusters in a wide variety of circumstances, such as the enforcement mechanism for holds, makes it extremely important.

Domenici: It is important, but not as a constitutional question.

Emerson: Do you consider yourself to be a strict constructionist?

Cutler: Generally.

Panel Presentation by Hyde Murray, Pete Robinson, William Hildenbrand, and Murray Zweben.

Hyde Murray

Acknowledged that criticism of Congress had been a national pastime since the founding of the Republic, but expressed concern with the current level of Congress bashing. Suggested three items for improving Congress.

- Improve comity within Congress and respect for the institution by the public;
- Improve the quality of congressional staff; and
- Adopt emerging technology

#### Pete Robinson

One of the chief problems of Congress is that the public does not have a very good understanding of how the rules work. An educative/public relations effort would be helpful to combat this.

Expressed skepticism that Oxford Union style debate would succeed, asserting that congressional debate works best when it is in connection with deciding an actual question before the House.

Recognized that the issue surrounding the motion to recommit was important. Agreed that the minority had justification for their perception that the current interpretation of the rule was not always fair, but that any change should also guarantee notice for the majority.

Multiple referrals are a problem, particularly because they have the effect of pitting committees against each other. The current practice seemed to assume that multiple referrals would occur. That presumption should be reversed.

On the subject of appointments to conference, the Speaker needed greater insulation from the demands of Representatives. The result of this pressure on the Speaker was larger conference delegations, and specifically, appointment of conferees for limited purposes. The use of subconferences, in particular, placed the House at a disadvantage in negotiations with the Senate since they limited the ability of conferees to negotiate the whole package.

#### William Hildenbrand

The rules of the Senate are not, by themselves, an impediment to establishing a schedule or agenda. When he first came to work for the Senate in the 1950s it had a regular schedule under substantially the same rules. On the other hand, there were several changes he would suggest in order to improve the operations of the Senate.

- Change the committee structure of the Senate along the lines suggested by Senator Kassebaum, providing for a merging of authorizing and appropriating functions;
- Enforce the current limits on committee assignments;
- Make the motion to proceed nondebatable in order to allow the majority leader better control of the agenda; and
- Allow a panel of former Senators and public citizens to recommend when action or further investigation by the Ethics Committee would be advisable.



### Murray Zweben

Suggested that the character of the Senate, no less than the society it represented, had changed since he first came to work for the Senate in the 1950s: both are much more complex now. Not all changes have been good. The practice of having a so many recorded votes, especially when the results are so lopsided, does not serve the Senate well. Holds used to be more than just an implied threat to filibuster. The Senate needs to return to that in some way.

Rule changes should be examined, and adopted if merited.

Scheduling needs to be more clearly recognized as a leadership function, because they are the ones who have to decide on what legislation they're willing to exert the necessary effort, particularly because of holds.

### Questions and Answers

Dreier: Has television played a major role in stimulating the current situation?

Hildenbrand: Yes, to some extent it has. The public often doesn't understand what's happening on their screen or why. Sometimes concern with being timely for an audience in another time zone may promote later sessions. Overall, however, the impact of television has been good.

Dreier: Do you think it encourages Members of Congress to perform from scripts?

Hildenbrand: Sometimes, but there are also other factors that effect the way Members behave. The high level of organization for many special interests distorts the way Members respond; it contributes to Members seeking an excessive number of committee assignments and increased zeal in promoting constituent services.

Dreier: What is your impression of a committee restructuring proposal like Senator Kassebaum's?

Zweben: It makes a good deal of sense. Jurisdiction is always a major question in any organization and jurisdiction over spending is a major conflict for Congress.

Hildenbrand: It makes sense. So would having authorizations in one year and appropriations in the next.

Murray: It's not a good idea. Authorizing committees can be too parochial for such a structure to effectively control spending.

Dreier: What if you also had a strengthened Budget Committee to act as a control mechanism?



Murray: Maybe that would make it workable. You still need to remember, however, what Joseph Cannon said is the purpose of the Appropriations Committee: to not appropriate.

Robinson: Jurisdiction is power, so any revision, especially such a substantial one, would be tough to accomplish. Enacting authorizations can often be problematic so that merging authorizations and appropriations might make it more difficult to enact appropriations. The process would be difficult regardless of how the Budget Committee's powers were enhanced.

Hildenbrand: The Joint Committee should look beyond what it thinks will pass, and make its recommendations based on what it thinks are good ideas.

Boren: I agree and would rather fail in a noble effort, than succeed in a useless one.

Both partisanship and an increase in individualism have contributed to changes in the way Congress behaves. What about reforms to promote a more powerful leadership, fewer committee assignments, and reduced staffs so that Members are forced to be more engaged?

Murray: The explosion of staff and of LSOs has contributed to a dilution of committee authority in a given subject area. As a practical matter, the legislative process needs to revolve around committees and their authority should be strengthened. Any reform should be phased in because that would not heighten opposition the way an immediate change would.

Robinson: Multiple referrals and overlapping jurisdictions are the biggest problem. A contributing factor is the decline of leadership authority. One effect of this decline has been that sometimes referrals and jurisdiction are the only things the leadership has under its control. The inevitable result has been the proliferation of overlaps you see today.

Hildenbrand: Congress is constantly evolving. The leadership is in a weakened state today as shown by the ability of Senators to use holds to derail any agenda the leadership might devise.

Boren: What about the drift towards partisanship?

Hildenbrand: Some of that is probably due to the fact that the Administration has changed, and may pass. It is not inherent in the rules.

Dreier: Some partisanship is due to frustration with the way the minority is dealt with.

Zweben: That points to one of the most pressing concerns: something needs to be done to increase the level of comity.

## HEARING SUMMARY, MAY 20, 1993

Witnesses: Representative John J. Moakley, Representative David Dreier, Representative Lincoln Diaz-Bolart, Representative Deborah Pryce, Dr. Barbara Sinclair, and Dr. Steve Smith.

Representative John J. Moakley

As Chairman of the House Rules Committee, acknowledged that he is the obvious spokesperson for the procedures by which bills are considered in the House. Indicated that in his twenty-one years in Congress, he had never experienced partisan tensions as aggravated and sustained as they have been over the past couple of years. Expressed most concern with the element of distrust that seems to pervade daily interactions.

Admitted that certain changes are needed and proposed several improvements to enhance the quality of the House's deliberations and to lessen partisan jealousies.

Noted the Democratic leadership's recent efforts to allow for more open, inclusive debate. By inclusive I mean providing for greater participation by both the majority and the minority. The views of the minority are a vital component of the legislative process, and within reason, should be accommodated. I say within reason because underlying the legislative procedures of the House is the general principle that a determined majority of Members should be able to work its will on the floor without undue delay by the minority.

I think everyone would agree that it is the prerogative of the majority party leadership to both set the legislative agenda and to provide for the orderly consideration of legislation in the House. And while the role of the Rules Committee is to try to facilitate the leadership's legislative agenda, its power is not without limitation. The Rules Committee can only recommend special rules to the House -- it cannot impose its recommendations on the membership. It is for the House to decide, by majority vote, whether it is prepared to accept the ground rules, including any restrictions on amendments that the Committee proposes.

Proposed amending House Rule XVI, clause 4, so as to guarantee the minority a motion to recommit with instructions whenever a special order reported by the Rules Committee precludes the minority from offering amendments in the Committee of the Whole. This right would be subject to a couple of conditions. First, the motion would be guaranteed only if offered at the specific direction of the Minority Leader or his designee. Second, upon receipt of the motion, the Speaker would have the power to postpone debate and votes on the motion and final passage for up to two hours.

I consider these conditions to be reasonable as they would allow the minority a vote on its position on major issues and at the same time allow the majority a

reasonable amount of time within which to prepare its response to the minority's alternative.

Recommended modification of clause 2(l)(5) and (6) of House Rule XI which respectively provide for a three day period within which Members may file supplemental, additional or minority views to be included in a committee's report, and an additional three day period for Members to review the committee report before the measure is considered by the House. The recommendation was to tighten the way in which the three day period for filing views is calculated, by starting the clock tolling immediately upon a committee's ordering of a bill reported. Often many valuable hours remain in a day on which a bill is ordered reported. Additionally, I would recommend giving committees automatic authority to file until midnight of the third day. These changes arguably would achieve the dual goal of allowing for more efficient scheduling of legislation and of insuring an adequate period for Members to file and review views.

Recommended that the House implement the Oxford-Union style debate program proposed by Political Scientists Norm Ornstein and Tom Mann. Such a program would be a useful vehicle for conducting thoughtful, substantive, and balanced debate on important national issues.

#### Questions and Answers:

Emerson: I think very often the Rules Committee is not permitted to be the deliberative body in defining the rules under which we are going to debate legislation, which would be healthy for the country. I think the leadership, in their anxiety to move something quickly to get it through, sitting off in some corner of the Capitol, calls over to the Rules Committee and tells it what kind of rule it wants. Does this ever happen?

Moakley: It is an arm of the leadership, responsible for getting matters to the floor and structured to deal with the business under consideration and also structured in such a way that the leadership would have a better chance of winning.

Emerson: The Rules Committee, of all committees, is and should be a leadership committee. But I do believe that something might be said for the Rules Committee to be more nearly reflective of the chamber ratio of the majority to minority parties instead of one of the three stacked committees of the House. In addition to its being a leadership committee, it should also be the committee that has the most to do with the protecting and guarding of minority rights: the rights of the minority to offer their views, in addition to just being rolled over by the majority.

Walker: If the Rules Committee is used more for efficiency than deliberation, then I think we begin to have a problem that has been our perception in the last few years and has led to a lot of harshness in the dialogue. We really don't feel we are having a chance to make our points felt. We understand we are going to lose on a whole host of issues, but at the very least they ought to be considered by the

country, not at the committee level which is hidden from the country, but on the floor of the full House.

With regard to your idea on the motion to recommit, do you see any possibility that it would end up being a substitute for the regular amendment process?

Moakley: No, I think this would be a basic right that the minority would be given.

Hamilton: How much reform do you think this institution can take? How bold should we be? More specifically, we will have to come to the Rules Committee before we go to the floor with our reform proposals. Suppose we come to you with a proposal that cuts the number of committees from 22 down to 10 or 12, completely revamps the budget process, that rewrites the ethics process, etc. Will that get through the Rules Committee? Should it go to the floor?

Moakley: The magnitude of that change is something I would never accept alone but would have to discuss with the leadership to see where they are coming down on it.

Hamilton: The general approach should be for the Rules Committee to permit amendments on the major policy issues. On the other hand, we cannot have open rules that permit hundreds of amendments which would seriously undercut the committees. The Committees' job is to narrow and define the principle policy issues. The body as a whole has the responsibility of voting on the tough policy choices.

Moakley: I agree, sometimes an open rule could change the policy of a bill completely by amendments. The major issues in a bill should be listed in the rule so they can be amended on the floor.

Hamilton: I get terribly frustrated on the floor when I can't find out what I'm voting on -- I can't find the language. This isn't right. One suggestion is to have a screen on the floor and project the amendment's language so Members can see what is being considered. Also, a possibility is to require amendments to be submitted ahead of time.

Moakley: Maybe we should have a person assigned at the desk who would be up to date on every amendment.

Lott: With respect to the Oxford-Union style of debate, how would you see it working in the House?

Moakley: The leadership of both parties could get together and decide when it should be used. For example, one day a week for full debate and Q & A on the spot.



Allard: With respect to discharge petitions, why aren't the names of those signing the petition made public? Do you see any problem with making the names public?

Moakley: I really never thought about it. I don't know the genesis of keeping the names secret.

Norton: With respect to the open rule, it is hard to visualize being able to do the business of the House in an efficient manner if an open rule were allowed in each case.

Moakley: I would like to see amendments proposed by the leadership of both parties. Yet, some would feel that we are gagging individual Members.

Lott: With respect to joint and sequential referrals, shouldn't the leadership direct more legislation to a single committee? The current situation is a mess.

Moakley: I don't think at this stage we can go back to referring legislation to the one committee that has the majority of the jurisdiction.

Lott: Maybe part of the solution would be reducing the number of committees.

Moakley: That would take care of your proxy problem, and take care of a lot of things.

Dreier: You have indicated to me previously that you favor reducing the number of committees.

Moakley: We should take a hard look. In 1974, we opened it up to all those subcommittees and we decentralized the power of Congress. It will be hard to get that genie back in the bottle.

Dreier: You do support in concept reducing proxy voting if the number of committees were reduced?

Moakley: If the committees were reduced you probably wouldn't have to worry about the proxy problem.

#### Representative David Dreier

Indicated that improving legislation through democratic scrutiny should be the guiding principle of the Joint Committee in its efforts to reform the operations of Congress. Expressed concern that present congressional structure, organization and procedures allow House Members to avoid public accountability on many controversial and important issues. These include a large and seemingly "permanent" staff bureaucracy, 266 committees and subcommittees with overlapping and contradictory jurisdictions, proxy voting, and a bewildering budget process.



However, the most overt tools used to obscure and avoid political accountability are the use of restrictive floor procedures and rules abuses.

During the 95th Congress, 85 percent of legislation that passed through the Rules Committee was open to germane amendments on the floor, compared to just 34 percent during the 102nd Congress.

The two excuses being offered for restrictive rules were 1) to prevent Republicans from offering amendments intended to embarrass Democrats and to prevent obstructionist tactics and 2) to speed legislation through the process. Review of the House schedule this year reveals that weeks go by with little or no floor activity. If anything, creative scheduling and the imposition of phoney deadlines becomes a weak excuse for limiting the rights of the vast majority of House Members.

Listed other procedural abuses that allow Congress to evade accountability: motions to instruct conferees, self-executing rules, king of the hill rules, and waiving the 3-day layover rule.

With respect to the 3-day rule, under the rules of the House, Members must be given three days to read and review a bill before it can be considered on the House floor. This is especially important today because, over the past 20 years, the average bill has quadrupled in length. Tax and budget bills tend to be hundreds, if not thousands, of pages long. This year, the 3-day layover rule was revoked on 77 percent of the legislation that passed through the Rules Committee, up from 8 percent in 1976-77. Increasingly, Members are forced to vote on complicated legislation they have never seen. The details are known only to a handful of non-elected committee staff people who are not held accountable to the voters. This is a fear I have with the upcoming reconciliation bill. Members may not have a chance to read the biggest tax bill in American history because Congress will be under pressure to meet a recess deadline.

I can certainly understand the views of the majority. They were elected to control the agenda and the schedule, and they have an obligation to put forth clear and concise legislation that represents their vision of government. I also acknowledge that restrictive rules -- not closed rules -- are useful and necessary on occasion when the leadership of both parties agree, such as when we consider major tax bills and the DOD authorization bill. Nobody in the minority disputes those contentions, and we are not out to change the principle of "majority rule." What I and my Republican colleagues are trying to change is a process that does not give the American public clear and concise legislation.

Referred to H. Res. 36 introduced by Minority Leader Michel and attached to prepared statement.

A recommendation I strongly support is the concept of a super-majority vote, whether it be two-thirds or three-fifths, to waive points of order against legislation. At the beginning of each session, the majority puts forth a package of changes to

the House rules that outline the procedures they deem necessary to control the agenda and the floor schedule. Once the rules are made, we should have to play by them unless extraordinary circumstances warrant otherwise. This, in my view, is the single best reform.

Also recommended that the Minority be permitted to offer one amendment to a restrictive rule before the previous question is ordered. The amendment could come in the form of an open rule substitute, or it could identify one or two specific amendments to the bill to be made in order. In this case, the majority could still preclude amendments it deems trivial or disruptive, but a majority would have to vote in support of that position. Members would no longer be sheltered from controversial votes by the Rules Committee.

### Questions and Answers

Allard: In Mr. Moakley's testimony, he proposed that the right of the minority on motions to recommit with instructions would be subject to several conditions including the right of the leadership to postpone debate for up to two hours.

Dreier: I don't have a problem with this proposal. The thing that really concerns me is that we consistently waive the rules. That is the reason for my proposal that we need to move in the area of the super majority to waive the rules.

Dunn: I was stunned that as a new Member, we are not free to offer amendments on the floor. I don't think the American public understands this. We met with Mr. Perot yesterday and he didn't know this.

What do you think of the open meeting proposals where C-Span could cover Rules Committee meetings?

Dreier: I have encouraged C-Span to monitor the actions of the Rules Committee. I support very strongly opening this process to the public.

Reid: How do you feel after these long days of hearings. Are we going to be able to do anything?

Dreier: Having just completed the hearings on Committee structure reform and listening to committee chairs argue for the status quo, it is going to be tough putting together a bold plan but I'm optimistic.

Reid: As Members of the Committee, we should get a chance to listen to other Members and sit down and talk about what is doable. We are going to have to set aside partisanship. If we do it right, we can get our Members on either side to vote for it.

Panel Presentation by Representative Lincoln Diaz-Balart and Representative Deborah Pryce

Representative Lincoln Diaz-Balart

Spoke on behalf of the Task Force on Deliberative Democracy representing the new Member perspective. Noted that as a legislator in the Florida House of Representatives, every Member was permitted to offer amendments both in committee markups and directly on the floor. Even though the Florida House is only twenty-five percent the size of the U.S. House of Representatives, it only meets for two months a year. Nevertheless, they were able to complete their work to get major legislation enacted. The only limits were on the time involved for debate. Consequently, each constituent in Florida was equally represented because each Member of the State House had the same opportunity to offer amendments to legislation.

Expressed frustration with his first appearance before the Rules Committee. I went to testify about an amendment to the Unemployment Benefits Extension bill that would have helped victims of Hurricane Andrew. Congresswoman Carrie Meek offered a similar amendment. The Rules Committee patiently listened, and no one argued that our amendment was either a bad idea or too costly. In fact, Members seemed to agree that the people we were trying to help were indeed worthy of our assistance. However, no amendments that Members offered that day were allowed to the bill. We were told that the Administration wanted a clean bill, and therefore no amendments would be permitted.

Representative Deborah Pryce

As a relative outsider to the congressional legislative process, felt in a unique position to better understand the growing dissatisfaction among voters over the way Congress conducts its business. Emphasized congressional reform during her campaign. Expressed belief that the American people expect us to have our own house in order.

Noted that both the Republican and Democratic freshmen classes each introduced a comprehensive set of reform proposals. Expressed pleasure in appearing as a representative of the Republican freshmen class and also on behalf of the Republican Leaders' Task Force on Deliberative Democracy in the House. Our message is equally simple: the American people can be better served by a Congress which respects the right to free and open debate on the merits of the issues.

Noted that there was a need to increase the opportunities for Members to offer amendments to major legislation on the House floor. By refusing to allow bills to come to the floor open for amendment, millions of citizens are literally disenfranchised when their respective Representatives are prevented from offering various amendments. When Members of Congress are elected with the expectation that they will be exercising their rights as lawmakers on behalf of their constituents, only to be told that they may not fully participate in the democratic process, there

is something seriously wrong with the democratic scheme of things in this body. We feel very strongly that true deliberative democracy--the very process on which responsible representative government depends--is in a dangerous decline.

Referenced the fact that the percentage of open rules has declined steadily since the 95th Congress when 85 percent of all rules were open to 34 percent in the 102nd Congress, and that there had been only one open rule so far this year. I would encourage this Committee to take a serious look at how granting more open rules can bring about substantive improvements to major national legislation.

Discussed a meeting the Republican freshmen class had with Ross Perot on May 19, 1993, in which Perot reminded them that the American people are watching this institution very closely. Mr. Perot agreed to work with them to move toward more open, deliberative, and thoughtful debate to improve legislation at every stage of the legislative process. Believed that full and open debate will foster more representative government and raise the level of esteem in which the American people hold this institution.

Panel Presentation by Dr. Barbara Sinclair of the University of California at Riverside and Dr. Steve Smith of the University of Minnesota

Dr. Barbara Sinclair

Discussed floor deliberation and scheduling that makes efficient use of time and promotes sound decision-making -- the latter criterion being the most important.

Noted that there is considerable consensus that sound decision-making requires true deliberations and informed debate. It is unrealistic to expect deliberation to take place on the floor of either the House or Senate and certainly not in the House. What we can and should expect on the chamber floors is informed and informative debate.

Sound decision-making requires time. Improving committee decision-making involves deliberation among Members, requiring more time for focusing Members' attention.

Given the enormous demands on Members' time, efficient scheduling is needed. In recent years, the House has tended to be in session fewer days per Congress but significantly more hours per day. Therefore, recommends that the House experiment with the schedule of three weeks in Washington/one week in the district that the Senate is currently using. This would involve 5-day-weeks for the 3-week period. This schedule would work only if Monday and Friday sessions were not scheduled or were canceled only under truly extraordinary circumstances. Due to the problem with the long primary season, use this schedule during the first year of each Congress.



In recent years, controversy has focused on special/restrictive rules. Minority party Members have labeled restrictive rules anti-democratic and have claimed they are used to prevent the House from working its will. Rules inevitably advantage one sort of majority over another. The House is a majority rule chamber, but you must decide what sort of majority should rule and your only basis for doing so is your conception of what constitutes sound decision-making.

Complex and often restrictive rules have become powerful and flexible tools for managing the legislative process on the House floor. They make possible the consideration of some legislation--particularly multiple referred legislation--that ordinary House procedures have no real way of handling; the big energy bill that passed in the 102nd is a case in point. Rules can provide order and predictability to the floor; consideration of complex and controversial legislation; they can be used to assure that floor time is apportioned in a reasonably sensible way, both within a given bill and across legislation and that debate focuses on the major alternatives, not on minor or side issues.

One's conclusions about the appropriate form of special rules depend on one's notions about what sort of majorities are likely to make better policy and therefore should be favored by the rules. The membership as a whole can and should make the big decisions; it can and should choose among the major alternatives. A body of 435 should not, I believe, get involved in a detailed rewriting of legislation on the floor via multitudes of individual amendments; it is too large and unwieldy, often the necessary expertise is lacking, almost always limited time precludes a full consideration of the impact of proposed changes. If one believes the membership as a whole can and should make the big decisions, then most rules should allow for the consideration of one or more major substitutes. In fact, most rules do just that.

With respect to the Senate, noted that some changes to Rule XXII are necessary. Possible changes in Rule XXII range from the modest to the radical. Certainly making the motion to proceed non-debatable would fall on the modest end of the scale. A somewhat more radical proposal would change Rule XXII so that the longer a measure is debated on the floor, the smaller the supermajority needed for cloture.

#### Dr. Steve Smith

Noted that moving to a two-year cycle for authorizations, appropriations, and budgeting would relieve some of the pressure on the floor schedules of the House and Senate. Congress could establish a national primary date which would relieve floor leaders of the burden of scheduling floor votes around primaries that occur weekly between March and June and then again in the fall of every even-numbered year.

Argued that the central issue in the House is finding ways to achieve a new balance between allowing a majority to act with dispatch and the minority's right to be heard and offer alternatives. Over the past two decades, this balance has shifted in favor of majority interests. This is a product of both non-partisan and



partisan factors. And with respect to partisan considerations, I find plenty of blame to be attributed to Members of both parties for this situation.

As a general matter, I believe that the majority's right to adopt special rules to suit its needs should not be substantially curtailed. To be sure, any House majority carries a burden of procedural fairness as well as enacting policy. The very legitimacy of congressional action hinges on the observance of processes that are widely recognized as fair.

My primary concerns are preserving a minority right to offer an amendment as a part of the motion to recommit and preserving individual rights to periods of time to study major proposals before casting votes on them. I recommend that the House adopt two new rules.

First, the House should guarantee the Minority Leader or his designee a right to offer a motion to recommit with instructions. Amendments ordered by motions to recommit that have not been considered in the Committee of the Whole should be required to be printed in the Record at least one day in advance.

Second, the House should require that the one-day layover rule for special rules apply to the text of amendments explicitly placed in order by the special rule as well. The House should require that the text of such amendments be printed in the Record or in a Rules Committee report at least one day in advance of floor consideration if the amendments have not been previously printed in the bill or a committee report.

In addition, the Joint Committee should urge the Rules Committee not to report rules that waive layover requirements for committee and conference reports except when absolutely necessary. Also favored moving the House to a schedule of three weeks in session and one week in the district.

Believed that far more serious problems confront the Senate. Hyper-individualism and both petty and partisan obstructionism have created near chaos from time to time on the Senate floor. The decision-making process on the Senate floor should be a matter of deep concern to all Members of the Joint Committee. The talents of many Senators are squandered by the unpredictable, stop-and-go character of Senate floor action. The external orientation of Senators--to electoral activities, fundraising, speechmaking, lobbying, and other opportunities--have fundamentally altered the context of Senate floor action. The possibility of a filibuster has forced more dependence on creative unanimous consent agreements. The necessity of obtaining unanimous consent has added to the Senate practice of holds and enhanced petty, highly personalistic obstructionism.

Senate Rule XXII is in need of change and the claims about Senate tradition should be placed in perspective. There is nothing in the constitutional convention, the Federalist Papers, or the Constitution itself that suggests that the Senate was expected to develop fundamentally different floor procedures than the House.

Recommends creating a "straight-track" procedure for Senate floor action to limit debate and non-germane amendments for limited periods of time. On a non-debatable motion, subject to majority approval, the Senate would return to existing rules. Before or after the Senate considers legislation on track, Senators' current rights would be preserved. Most debate on legislation would occur in a more controlled and predictable setting. Nothing would prevent cloture from being invoked before or after the consideration of legislation on straight track.

Also recommends making it more difficult for a single Senator to object to a floor leader's request to call up a measure, limit debate, or limit amendments. The objections of at least five Senators should be required in order to block such a request. If this were done, along with curbs on obstructionist quorum calls, the disruption caused by petty, personalistic holds would be reduced.

### Questions and Answers

Emerson: We should have a five-day work week, but we need a master schedule of the House so we know what committee meetings are scheduled and so we would not be in conflict with other committees. The schedule should preclude committees from meeting when the House is in session. There is an enormous waste of time from interrupting committee meetings with votes on the floor. Could you comment on this?

Sinclair: Congress could institute a system where attendance at committee meetings is made public to encourage Members to attend the meetings.

Emerson: There is not much deliberation in the committee process when a lot of legislation is reported out without a roll call vote. In many cases, legislation is product of the staff, and Members don't know what is in the legislation when proxies are voted by the committee chairs.

Smith: The Legislative Reorganization Act of 1970 provides that committee roll call records are to be made available to the public, but they are not accessible. I would favor a rule change to create a congressional document making available committee roll call records. This would also create a demand among the Members to find ways to straighten out the scheduling problems with subcommittees and committees.

Emerson: I can think of instances during the past three weeks when I've had three different subcommittee meetings scheduled at the same time. I've often thought that this also gives the leadership scheduling control to the detriment of rank and file Members.

Smith: There really is no excuse for not going to the 5-day-week to prevent this problem.

Emerson: They schedule floor action for Tuesday, Wednesday, and Thursday to get Members here to do committee work. They wouldn't be able to muster

people in committee if floor action wasn't scheduled. That's why I think there has to be some kind of rule requiring mandatory attendance in Washington for these meetings.

Dreier: Another solution is to dramatically reduce the number of committees in the Congress. If we were to implement plans as proposed by the Congressional Research Service package, there would be 8 committees per House of Congress. My real concern is adherence to House rules. I have concluded that it is going to be difficult to stick to these rules without the teeth of a super majority requirement to waive the rules.

Smith: Anything less than a one-day layover should be subject to a two-thirds majority. I would go further and institute some layover requirements for alternative substitutes negotiated between committee leaders after the committees have reported, when they walk into the Rules Committee and say please put this substitute in order. Nobody has seen the language. I would like to see the text of amendments explicitly placed in order by special rules to be available at least a day in advance.

## HEARING SUMMARY, MAY 25, 1993

**Five Witnesses:** Representative Bill Emerson, Senator J. James Exon, Senator David Pryor, Representative W.J. (Billy) Tauzin, Senator Tom Harkin

Vice Chairman Domenici commenced the hearing, stating that it was a continuation of hearings on the committee system, floor procedure, and scheduling.

Representative Bill Emerson

We need to ensure that Members' frustration with scheduling remains on the table for serious discussion. Fractured attention in Congress is a result of scheduling problems. The proposal for a series of Oxford style debates will not succeed if Members are scheduled so tightly that they cannot attend. We need to inject predictability into the legislative process.

Fundamental reform of the committee structure is needed. Cut back the number of assignments per Member. We must acknowledge the fundamental reality that Members can't be in two places at once.

Perhaps, have two to three weeks of committee work and after that period the House would be in session. When the House is in session the committees would not meet. I asked Senator Robert C. Byrd about this proposal. His reply was that in theory it is great, but in practice it would not work because absent the threat of votes, it is difficult to keep Senators in Washington.

Publish committee votes to make it easier for the press to find out who votes for what in committee.

Eliminate proxy voting. We do not have proxy voting on the House floor and the Rules and Veterans' Affairs Committees do not allow proxy voting. Veterans' Affairs Chairman Montgomery reports an 85 to 90 percent attendance rate in that committee.

Begin work in January and work 5 day weeks, devoting six months to one year to legislation and six months to one year for strict oversight of programs and projects already enacted. Create a master schedule to minimize the current scheduling conflicts. Currently, the House squeezes 5 days into 3 days and is in session between 10:00 a.m. and 2:00 p.m. when committees are meeting; this results in scheduling conflicts.

The committees and the House of Representatives should meet at separate times. This would result in a more deliberative Congress.



## Questions and Answers

Dunn: How could Congress work 5 days and still pay attention to constituents?

Emerson: Congress would not need to be a year-round institution. The House might want to try what the Senate currently does, 3 weeks on, 1 weeks off. Perhaps Congress could be a 6 to 7 month institution and return to the concept of citizen legislators.

Change the rules of the House to ban proxy voting and to limit the number of committees each Member sits on. Also, simplify the committee process.

Allard: Do you support Oxford style debates?

Emerson: They could be helpful.

Domenici: The House might consider opening its rules. You don't need to rig it to Oxford style debates.

Dreier: How can Congress deal with reductions in staff?

Emerson: There are two separate issues. The staff of individual Members is not excessive. Regarding committee staff, we need a reasonable allocation to the minority and a technical and professional staff. Committee staff needs a thorough review and I support a reduction in staff here. Perhaps, expand the authority of CRS to give some of the work of the committee staff to CRS staff. I use CRS and have a high regard for the work of CRS.

Domenici: I plan to propose a 2-year Congress with the first year devoted to budget/appropriations/taxation and the second year devoted to oversight and authorizations. The first year make a commitment to the Members that Congress will finish appropriations by September 1 and will then be out the rest of the year. Do the same in the second year. Have broader based Finance and Ways and Means Committees. There is little oversight in the Appropriations Committee. Our oversight is based on crisis.

Emerson: There is a time for legislating and appropriating and a time for oversight. Why not have mandatory attendance? Have pay docked if a Member is not in Washington when Congress is in session. This law may already be on the books.

Domenici: A master schedule was proposed in detail in the congressional reform effort that preceded the previous reform effort.



### Senator J. James Exon

I go on the record in support of the Majority Leader's 7 new rules changes.

I propose the following with regard to holds. Currently, it takes 1 Senator to place a hold on a bill. I would amend this so that it would take 16 Senators to place a hold on a bill. It takes 16 Senators to sign a cloture petition. Both Democrat and Republican leaders have developed an informal system. There is a uniform policy regarding notification of Senators. This has been abused. There are situations where staffs put holds on bills. We have holds, retaliatory holds, rolling holds, etc. We may need a new Senate rule. The rights of the minority will be fully protected.

### Questions and Answers

Lugar: Can the Majority Leader come forward on a bill whether there is a hold or not? The Joint Committee could try to clarify this issue.

Exon: The Majority Leader can bring the bill up. Maybe the situation could be corrected by having the Majority and Minority Leaders spell out the procedure. Historically, holds were well intended to allow Senators to know of legislation affecting their State.

Lugar: Maybe the Joint Committee can offer guidelines rather than legislation on this.

Lott: Staff do place holds on bills without the knowledge of Senators. Perhaps, require that the hold be executed by the Senator.

Domenici: Eliminate Rule XXII. This would diffuse the validity of holds and make a more practical, less arbitrary process.

### Senator David Pryor

In 1986, Senator Danforth and I proposed 4 Senate resolutions on the allocation of time. Those proposals were as follows.

#### 1) Sense of the Senate Resolutions:

A skyrocketing number of Sense of the Senate Resolutions are proposed. On any given day on any debated issue a Senator could throw down on the Clerk's desk a Sense of the Senate resolution. These resolutions are debatable, filibusterable, take an enormous amount of time, but have no legal effect.

We proposed that no Sense of the Senate resolution be considered until 20 Members or 1/5 of the Senate had signed off. These resolutions commonly take the

form of commemoratives. The Senate Judiciary Committee requires any commemorative resolution to have 50 cosponsors.

Regarding the earlier debate on holds, they are allowed by custom rather than required by rule.

2) Motion to Proceed:

This is an amazing parliamentary hurdle. I would like to insert into the hearing record the following chart:

CLOTURE MOTIONS

	Total Filed	Votes	Motion to Proceed
77/78	25	13	2
79/80	33	21	2
81/82	33	27	3
83/84	41	19	10
85/86	41	23	11
87/88	54	43	11
89/90	37	23	12
91/92	62	48	35

We may be heading toward a record breaking year on cloture motions this session.

I would also like to insert into the hearing record a graph on votes each year and hours in session each year for the 90th through the 102d Congress. This shows the voting pattern going down and the hours in session going up. We are talking more and voting fewer times. What this means I don't know.

Ten percent of all of our votes in the last Congress were on cloture. There has been a drastic increase in the number of cloture petitions. We need to give the Majority Leader more power to set the Senate schedule.

3) Laxity Regarding Time of Roll Call Votes:

Senators spend an enormous amount of time waiting for other Senators to come to vote. I once figured out that we spend 2 1/2 weeks of time accommodating each others schedules.

We could enforce a 20 minute rule on roll call votes, with exceptions only of the direst nature.

4) Require Amendments on the Senate Floor to be Offered in the Order of the Bill Title Being Considered:

We should amend legislation by title. To revisit a title already acted upon would take unanimous consent or 60 votes. Many times Senators sit in the Senate waiting for an amendment to be brought over and offered.

### Questions and Answers

Lugar: The rules are not being abused. We need less movement toward filibuster on questions that are not monumental to the Nation.

Pryor: Stalemate and gridlock is caused as much by the threat of filibuster as by the filibuster itself.

Norton: Did the Framers bless the filibuster? What do the Federalist Papers say about the filibuster?

Pryor: I do not think the Federalist Papers included it.

Domenici: Without Rule XXII we would have two bodies acting exactly the same. The Reconciliation Bill currently before the House, if subject to two weeks of Senate debate, would probably not become law. It is like a stealth bill.

Dreier: Do Senators abuse the privilege of having Senators wait for them?

Pryor: In the past, a few Senators have seemed oblivious to time. C-Span coverage of the Senate changed this a little bit.

Dreier: What is the meaning of extraordinary circumstance?

Pryor: A Senator getting stuck in an elevator, especially in the Dirksen Building.

### Representative W.J. (Billy) Tauzin

A state-level solution is a structured day. The House of Representatives should meet everyday at the same hour and devote 1 hour in the morning to 1 minute speeches and procedural matters. Then break the floor proceedings at 9:00 to allow for committee hearings and mark-ups that would continue through 1:00 or 2:00 p.m. At 1:00 or 2:00 p.m., the House floor would reopen and Members would have to be in attendance.

End temporary assignments. Make Members indicate their real choices on which two committees they really want to serve on.

Require quorum calls in the morning and at all committee and subcommittee meetings, hearings, and mark-ups. Set attendance standards for membership on committees and subcommittees and keep records of attendance. If the Member

misses the majority of the sessions maybe he/she is not really interested in serving on that committee or subcommittee.

Members really have to choose committees and subcommittees. Records should be kept of attendance.

Technology has changed. If we continue to have committee sessions while the House is in session, have voting machines at committee rooms for Members who are in committee to register their presence for quorum calls and approval of journals.

Let Members themselves decide the committees that ought to be eliminated. Limit Members to a real, fixed number of committees. Identify committees that Members are not really interested in working on, then make a decision as to whether the committee should operate or not. Do you really want to keep a committee that Members have lost interest in?

If Members know in advance how their time can be allocated, more time can be set aside for committee hearings and Committee of the Whole action.

#### Questions and Answers

Swift: A mechanism by which committees become self-evident, a self-executing nature for committee assignments, may create pressure for new select committees.

Tauzin: There should be strict adherence to self-selection. Members should be limited to two real priority selections.

Swift: Require in the Rules of the House approval of both parties to make exceptions before going to either leadership group.

Tauzin: You could say that a Member would lose his/her committee assignments for not showing up.

Dreier: There are 266 committees and subcommittees. There have been suggestions to reduce the number of committees and subcommittees. Perhaps have 8 committees per House.

There have been suggestions to eliminate proxy voting. Attendance is kept in committee today. It may be difficult to get, but it is available. Take the information which is already made available and put it in the Congressional Record.

Tauzin: Some people just walk in and out of the committee room or drop off a proxy form. There would be no problem with eliminating proxy voting. This will be a hard sell to the leadership of the committee. Proxy voting contributes to nonattendance at hearings and mark-ups.

Dreier: It is my impression that journal votes are often whip checks.

Tauzin: We should reduce the number of committees and subcommittees. Have Members make the selection as to which should exist.

Dreier: Should we eliminate subcommittees or merge them into other subcommittees?

Tauzin: If attendance at subcommittee hearings went below a certain level, the committee would have to decide if it still wanted to retain it.

Americans should have esteem for Congress rather than for individual Members.

### Senator Tom Harkin

The House of Representatives should have 4 year terms.

The use and threatened use of the filibuster has exploded. In 1918 cloture was introduced. The use of cloture motions has grown from less than 2 per Congress to 37 per Congress since that time. There were some 48 cloture votes in the Senate last year. We have had cloture on an Assistant Secretary position and on campaign finance. The minority insists on blocking the majority from making a decision.

I support the right to extended debate. I have on occasion voted against cloture and against expedited procedures. I have great respect for tradition, but allow the Senate to act.

I propose a variation on something that Senator Dole proposed. (Quoted Senator Dole in 1970/71 on the issue of a vexatious minority thwarting the will of the majority.) I call it a Ratchet Proposal. The first cloture vote would require 3/5 or 60 votes. If that failed, the next vote could not take place until the second subsequent day and 57 votes would be required. The third cloture vote would require 54 votes. The fourth cloture vote would require a simple majority or 51 votes. I believe this proposal would satisfy the constitutional challenge. A simple majority would decide the issue. Lloyd Cutler says the Ornstein proposal is constitutional. Mine would be constitutional. The rights of minority should be protected.

I support Senator Exon's proposal on holds.

### Questions and Answers

Dreier: How can relations be improved between the House and the Senate?

Harkin: There is no institutional framework for the House and Senate to operate together. Only in conference committees do the House and Senate meet. Under another scenario, for example, say if a Member wanted to introduce legislation on education, then have the legislation referred to a joint House/Senate



committee that would propose a final product to both the House and the Senate. The House and Senate would then work on changes in conference.

Swift: It would be helpful if we could get the House and Senate committees to decide on the same agenda for the 2 Houses.

Dreier: Should the committee structures in the House and Senate be parallel?

Harkin: When I served in the House, I knew a few things, but I knew them well. In the Senate, I am spread so thin that I know a little about a lot. When the committees are parallel, this could be a problem. The Members could lean on each other for knowledge.

[Representative Steny Hoyer submitted written testimony to the Joint Committee and will reschedule his appearance before the Joint Committee.]

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## Congress of the United States

JOINT COMMITTEE ON  
 THE ORGANIZATION OF CONGRESS  
 ROOM 175D FORD HOUSE OFFICE BUILDING  
 Washington, DC 20515-6775

May 12, 1993

TO : Joint Committee on the Organization of the Congress

SUBJECT : Background and Issues on Reform of House Procedure and Scheduling

This memorandum provides background on and summarizes changes which have recently been proposed in House floor procedure, particularly in the scheduling and consideration of legislation.

## I. BACKGROUND.

### A. History.

An enduring central issue in House floor procedure has concerned effective control over the policy agenda, schedule, and floor proceedings by a voting majority, specifically by a party majority acting through the Speaker and other leaders. This control has involved particularly bringing measures, amendments, and motions to the floor, and restricting possible dilatory actions.

From the first, the Committee of the Whole has been a key feature of House floor procedure; specifically, the House has long required consideration of "money bills" (revenue, appropriations, authorizations) by this means. In Committee of the Whole, in contrast to the House, it is not in order to use the previous question to cut off the amendment process. These arrangements accordingly tend particularly to protect the ability of the House as a whole to work its will on such bills through amendment.

Early 19th Century procedural development was driven by increasing membership and workload. Here began the concepts of a regular order of business with privileged interruptions, of different categories of business privileged at different times, and of pervasive time limits. The late 19th Century was a period of high partisanship, in which a key issue was Majority control versus Minority dilatory tactics. This period culminated in the (Speaker Thomas B.) "Reed Rules" of 1890, whose objective was "to permit the House to

go at once to any measure on its calendars," and which remain the framework of House floor procedure today.

In the following years, on the basis of these rules, the Majority, through the Speaker, established virtually complete control of the floor agenda. In this period developed the practices of regulating consideration through special rules from the Rules Committee, and of moving the previous question routinely after one hour's debate on measures considered in the House. The "revolt" of 1910 against Speaker Joseph Cannon devolved much control to committees, but in the 1930s Speaker Sam Rayburn began a process of recentralization. Although the Majority had since the mid-1920s nearly always taken at least a 2:1 ratio of seats on the Rules Committee, a key step in this centralization was reached only when the leadership regained effective control of this panel in the 1960s. In the 1970s, in addition, the party leaders gained direct power to appoint the Committee's respective members.

#### **B. Problems and Issues.**

Several recent works on House floor action find the 1970s and 1980s a period in which Members generally pressed for more active participation in legislation, and accorded less deference to committee and leadership control. In particular, the offering of floor amendments increased substantially during this period. Committee and chamber leaders, in turn, attempted to maintain control of the floor agenda by increased use of such devices as

- second-degree amendments in response to floor amendments,
- omnibus measures, in part to keep legislative packages intact,
- special rules restricting the offering of floor amendments,
- suspension of the rules to preclude floor amendments, and
- special rules to preempt action on discharge petitions.

Recent rule changes also permit the leadership in some cases to call up measures without being subject to a vote of the House, especially on suspension of the rules and when a special rule has already been adopted.

In response to these developments, Members have sought to secure their involvement in policy making by such means as (1) legislative amendments to appropriation bills, (2) attempts to call up measures by unanimous consent and (once) Calendar Wednesday, and (3) motions to instruct conferees. They have also used (1) commemorative measures, (2) "Sense of Congress" provisions, (3) special orders, and (4) one-minute speeches to take positions on issues.

***Deliberation and Decision.*** In this situation, understanding of the goals to be achieved by any change may differ sharply from Majority to Minority, and from leadership to the rank-and-file. Minority and rank-and-file Members tend to favor increased opportunities for deliberation and amendment; Majority and leadership, enhanced efficiency and greater control over the floor agenda. For example, the Minority has felt aggrieved by its inability to offer a wider range

of amendments on the floor, while the Majority has sought to restrict amendments they consider trivial, disruptive, or unlikely to pass. Such views reflect divergent concepts of the place of procedural restrictions in representative government: the Minority tends to see them as interfering with Members' exercise of their representative functions; the Majority, as appropriate means by which an elected majority implements its mandate.

Members' views of any recommendations the Joint Committee makes will likely depend how they affect the House balance between openness and efficiency. It might also be possible, however, to enhance opportunities for Members to offer policy alternatives while also fostering more expeditious proceedings. Minority and other House groups may be most inclined to rely on procedural actions (e.g., demands for roll call votes, including votes on approving the *Journal*; motions such as to adjourn, table, reconsider, and recommit; and objection to unanimous consent requests) in order to make indirect policy statements when they consider their opportunities to present and debate propositions embodying their own program inadequate. Procedures ensuring Minority opportunities to contribute to the legislative agenda might be combined with further restrictions on procedural motions. The net result might be an increase in the efficiency of House action and in its ability to make clear policy choices.

**Position-Taking.** In addition, many current proposals in this area seem intended to enhance, not so much Members' actual influence in the policy process, but their ability to make their positions public, including opportunities to put opponents on record. The right to offer amendments that appear to have no chance of adoption, for example, may embody such an opportunity, even when "inefficient" from the perspective of policy making. Opposition to such proposals, correspondingly, may represent desires not only for efficiency but to avoid being compelled to assume fixed positions on difficult questions.

**Scheduling.** Finally, rank and file Members of both parties have also expressed desires for more predictable scheduling, to enhance the "quality of life" for themselves and their families. Changes fostering such ends, however, often also imply greater leadership control of proceedings.

## II. CURRENT PROPOSALS.

### A. Terms of Consideration.

**Special Rules.** *Restrictive rules*, which limit the floor amendments that may be offered to a measure, include *closed rules*, which generally prohibit floor amendments altogether. The Minority has pointed out that over the past few Congresses, such rules grew from under 10% of the total to well over half (and all but one rule so far in the 103d have been restrictive). Constraints on such provisions in special rules would protect legislative opportunities of individual members, but also reduce leadership control of floor proceedings, including making scheduling less predictable.

Several other types of special rule, or practices in relation to special rules, have also received recent criticism, including the following.

- *Waiver rules* include those that waive the germaneness requirement (or other rules, including requirements of the Budget Act) to permit the consideration of specified amendments, including Senate amendments in resolving interchamber differences.
- Other rules *wave layover requirements* to permit earlier consideration of specified measures (or conference reports).
- *Self-executing rules*, or "hereby rules," automatically bring about passage of a measure, adoption of specified amendments, or other legislative action.
- "*King-of-the-hill*" rules alter the normal amendment process to place a favored alternative in an advantageous position.
- The requirement for a 2/3 vote to consider a special rule on the same day reported can be vitiated by a special rule or a brief adjournment.

Many of these devices are criticized for being used to assign procedural advantages and disadvantages selectively to propositions, and thereby to constrict Minority, and rank-and-file, opportunities for policy influence or even position taking. Curbing such devices might make proceedings more regular and predictable. Yet if such curbs reduced the flexibility of the leadership (and specifically of the Rules Committee) in managing the content of the floor agenda, the leadership might likely seek to develop other means of obtaining equivalent flexibility.

Means proposed for curbing such practices, in decreasing order of severity, include (1) prohibiting them altogether, (2) permitting them only by a 2/3 or other special majority vote (one of the Freshman task forces proposes 3/5 for closed rules), (3) permitting a separate vote in the House to strike such a provision out of a special rule, and (4) requiring notice of any attempt to use the practice. The other Freshman task force proposes requiring longer debate time for measures under closed rules.

***Motion to Recommit.*** Some special rules also prohibit (or, in some cases, fail to permit) amendatory instructions in the motion to recommit that the Minority is entitled to offer at the conclusion of a measure's consideration. Proposals have been made to prohibit, or to require a supermajority vote for, such provisions in special rules. As with other restrictive rules, the Minority opposes this limitation on its ability to influence the legislative agenda.

A 1985 rule change permits the Majority to extend the time for debate on a motion to recommit with instructions from 10 minutes to one hour. The Minority advocates extending this privilege to itself, or else providing one hour in all cases by rule. Such changes would enhance Minority opportunities for position taking.



***Suspension of the Rules.*** A measure can be called up under suspension of the rules with no advance notice, and even if the committee has not reported it. Also, (1) the House then cannot decline to consider it, (2) points of order otherwise valid may not be raised against it, and (3) no floor amendments may be offered. Those who hold that these procedures offer inadequate predictability and opportunity for participation propose that consideration by suspension require one or more of the following:

- One week, or one day, advance notice from the floor or in the *Record*.
- Committee authorization by rollcall vote or written concurrence of the ranking minority member. (For reported measures, the committee's vote to report is now held sufficient authorization for the chair to secure its consideration under any procedure.)
- That the measure not authorize or appropriate more than \$50 million in any fiscal year. (Current Democratic Caucus rules impose a similar, but not mandatory, standard of \$100 million.)
- That the measure not propose to amend the Constitution. (A response to a 1983 leadership attempt to have the Equal Rights Amendment repropose by this means.)

Other plans propose to permit raising certain points of order against measures even when considered under suspension. This proposal, too, appears designed to reduce leadership flexibility in permitting favored measures to circumvent normal procedural requirements.

***Discharge Petitions.*** The most common current proposal here would mandate publication of signatures to pending petitions, either immediately, periodically after perhaps 100 signatures are obtained, or at the end of the Congress. As confidentiality was originally intended to weaken outside pressures to sign, this change would presumably make discharge procedure more useful for position-taking.

Other proposals would prohibit certain actions now used to recover control of the agenda from proponents of discharge, including (1) special rules superseding the discharge procedure and (2) committees' reporting of the measure at issue. A more moderate step would shorten or eliminate the time between entry of a discharge petition and the time the motion may be made. Finally, lowering the signature requirement from 218 to 145 (1/3 of the House) would expand minorities' opportunities for both agenda control and position taking.

***Privileges of the House.*** Especially the Minority party has recently sought to use these privileged resolutions to raise issues about House proceedings and operations. The Majority has responded by (1) often moving immediately to table these measures and (2) instituting a rule permitting consideration of such measures to be put off for two days. Supporters of such resolutions advocate prohibiting both practices.

**Veto Proceedings.** The Minority has advocated abolishing established practice allowing vetoed measures to be referred to committee, so that no override vote occurs. Requiring such a vote would ensure an opportunity for position-taking.

**Commemorative Measures.** Recent increased use of these measures seems to serve position-taking functions, but is opposed as an inefficient use of House time and money. Various proposals would restrict such measures by:

- Requiring 290 cosponsors (2/3 of the House; the Post Office Committee currently requires 218).
- Permitting consideration only on a new Commemorative Calendar that would be called only at specified times. (The Senate already considers commemoratives only in certain months.)
- Prohibiting their consideration, sometimes by replacing the practice with a Commission to recommend such observances to the President.

#### **B. Restrictions on Procedures and Measures.**

**Voting.** Proposals to make greater use of "five-minute" and "clustered" votes seem intended to improve efficiency in scheduling, save Members' time, and reduce dilatory possibilities. Proposals to make the currently established 15-minute minimum period for electronic voting also a maximum might have similar effects, but eliminating the Chair's current discretion in the area could also diminish leadership control over House policy decisions.

A proposal to prohibit a vote on final passage of a measure unless copies have been available to Members for at least one day seems intended to improve predictability and Member opportunity for informed choice. Such a practice could also increase delays, especially for measures considered at the end of a week if the practice of keeping Mondays free of roll call votes is maintained.

**Motions.** Proposals of a Freshman task force that use of motions to adjourn and to reconsider be limited, and that votes on the approval of the *Journal* be abolished, would further restrict opportunities for delays through procedural means. General parliamentary law presumes that a motion to adjourn is always in order, for otherwise a body could be kept in session against its will by the offering of more highly privileged motions.

**Subject Limitations.** The recent emergence in the budgetary area of procedural controls against measures with certain substantive contents seems to have fostered proposals for similar restrictions in other areas. These appear intended as a means of agenda control (and, in some cases, of enhancing predictability) through procedural restrictions. Examples include:

- Requiring a roll call vote on either (1) any proposed changes to the Rules of the House, (2) pay raises, or (3) spending legislation, such as appropriations or debt limit bills.

- Prohibiting bills and joint resolutions containing more than one subject. Such a change would limit leadership use of omnibus measures to curtail voting options, but would require specifying how "subject" would be defined.
- Establishing a point of order against consideration of measures imposing unfunded Federal mandates on State and local governments (and require the Federal Government to fund such mandates if enacted.)

**Delegate Voting in Committee of the Whole.** Opponents of this new rule, chiefly from the Minority, advocate either (1) abolishing it or (2) permitting a separate vote on it alone. They argue that this practice raises serious constitutional, representational, and political questions.

### C. Debate.

Rank and file Members, in particular, have expressed dissatisfaction with the common limitation of general debate on measures to one hour and with other time constraints on floor participation in policy debates. Most proposals seem directed either at enhancing opportunities for position taking, or conversely at improving scheduling efficiency by limiting House time used for such purposes.

**Non-Legislative Debate.** Proposals on *special order speeches* include (1) abolishing them, (2) limiting them to four hours per day, at least on some days, and to times before 10 p.m.; (3) having them delivered and televised from elsewhere than the House chamber, and (4) charging Members' office accounts for their cost. Some proposals would also abolish *one-minute speeches*, *extensions of remarks*, or *insertions* in the *Record*. One plan would continue to permit extensions related to legislative business of the House or its committees.

A proposal to opposite effect would permit germane one-minute speeches during legislative debate, thereby reducing managers' control of debate and the effects of its limitation to fixed periods.

**"Great Debates" on Major Issues.** A frequent proposal has been to direct the Speaker (generally after consultation with the Minority Leader) to schedule periodic "Oxford style" debates on major issues, especially during prime time. This proposal seems to reflect satisfaction with House debate on the "Gulf War," but differs in not tying such debates to any pending legislative measure or question. This proposal would not directly affect the policy agenda, but seems intended to expand opportunities for position-taking. Members could organize such dialogues today only during special orders; restrictions on such speeches could affect such activity as well.

**Interbranch Debate.** A related issue is establishment of a regular period (e.g., each first Tuesday) for Cabinet officials to appear in the House (and perhaps also Senate) and respond to questions. Such proposals are conceived

as reflecting the regular "Question Time" practiced in the British and other parliamentary systems. In such systems, however, Ministers normally already have the right to participate in debate because they are themselves Members of the Parliament. This proposal seems designed primarily to improve opportunities for position-taking. A related proposal would grant floor and speaking privileges to former Presidents (who did not resign under duress).

**Reporting and Publication.** Some Members, especially among the Minority, have always opposed the broadcast of views of the full Chamber only during special orders, which show low attendance. One proposal would require broadcast practices to be consistent during both legislative business and special orders. Relatedly, some would make the *Record* more nearly verbatim by eliminating Members' right to revise transcripts of debate or to insert extraneous matter.

**Pledge.** Several proposals would write the Pledge of Allegiance into the rules as an order of business at the beginning of each day. It is currently an informal practice conducted at the Speaker's discretion.

#### **D. Scheduling and Agenda.**

Some argue that efficiency in House floor action could be increased by enforcing full five-day work weeks, which would presumably involve a regular expectation of recorded votes on Mondays. Another suggestion would establish a daily period for leaders to discuss and entertain questions on the projected schedule, modeled on the Senate's present "leader time." More far-reaching proposals would mandate the Speaker to "establish" or "announce" an annual legislative agenda, perhaps including advance schedules for legislation and recesses. Some would mandate consultation with (a) the Minority or (b) the Senate in doing so; others would involve the party policy committees or establish a Legislative Agenda Committee.

The chief objective of scheduling proposals seems to be enhancing efficiency and predictability. However, proposals that weekly and advance schedules be set through consultation with the Minority Leader seem more concerned with enhancing Minority involvement in the process. Yet most lack of regularity in House schedules today seems to stem from the processes of political adjustment involved in carrying them out. In particular, it is unclear how the proposed "agendas" would differ from present practice, or what their effect would be. How would they be modified to meet changing circumstances? Would they constrain the work of committees? Would they be enforceable, and how? Proposals to grant leadership authority to implement agendas without chamber action seems to reflect desires that the House operate more as a managerial institution, and less as a deliberative one, a potentially profound change.

A more radical step might simultaneously meet desires for foreseeable agendas, policy participation, and position-taking by reviving some version of former practices of debating (and amending) resolutions instructing committees

on issues. Such deliberations early in the session could (1) permit "great debates" that were tied to concrete legislative propositions, (2) allow Members to stake out policy positions, and still (3) subsequently preserve the central role of committees in preparing finished proposals for the floor.

***Session Adjournment.*** Related proposals address the length of annual sessions. One would repeal an obsolete statutory provision for adjournment by June 30, while another would alter the date to Sept. 30; a variant would dock Member pay for days in session thereafter.



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## Congress of the United States

JOINT COMMITTEE ON  
 THE ORGANIZATION OF CONGRESS  
 ROOM 175D FORD HOUSE OFFICE BUILDING

Washington, DC 20515-6775

May 12, 1993

TO : Joint Committee on the Organization of Congress

SUBJECT : Background and Issues on Reform of Senate Procedure and Scheduling

This memorandum provides background on and summarizes changes which have recently been proposed in Senate floor procedure, particularly in the scheduling and consideration of legislation.

# I. BACKGROUND.

Issues in Senate floor procedure have always centered around the Senate's traditions of broad legislative prerogatives for individual Senators and of mutual accommodation. These practices are related, in that only by comity and mutual adjustment can Senators' use of their legislative prerogatives be restrained. Among the most prominent of these prerogatives are that debate is normally unlimited, including debate on the motion to proceed, and that non-germane amendments are normally permitted. Among the most prominent forms of accommodation are the Senate's still developing practices of regulating the consideration of many measures by means of unanimous consent time agreements.

## A. History: Filibusters and Cloture.

Until 1917, the Senate had no cloture rule, and until 1962, cloture was almost never invoked. During most of this period, however, observers report that a form of accommodative norms prevailed, under which filibusters should be conducted only on matters of intense conviction. Attempts would normally be made to overcome them only by endurance, and cloture sought only after substantial debate. If a cloture attempt failed, supporters would normally desist from pressing the measure; if it succeeded, however, opponents would normally desist from their filibuster. These practices led to the marathon filibusters by debate characteristic from the 1930s into the 1960s.

In addition, before 1933, the last, or "short," session of each Congress continued until the constitutional term of the Congress expired, so that filibusters became increasingly effective as this deadline approached. Also, before 1949, cloture could be invoked only on measures, not on the motion to proceed. Because the motion to proceed is fully debatable, it appears that filibusters during this period were often directed against that motion, rather than against the measure itself.

Only in the 1970s did Senate leaders begin to use cloture as a normal tool for the management of the floor agenda and for overcoming filibusters. Practices grew up of moving for cloture (1) multiple times on the same measure, (2) immediately when a measure was called up, or (3) as a means of excluding non-germane amendments to a measure. Leadership success in using cloture increased after 1975, when the majority required for cloture on most matters was decreased from 2/3 of Senators voting to 3/5 of the full Senate (60).

Senators now appear less inclined to desist from a filibuster if cloture is invoked, and more willing to conduct separate filibusters first on the motion to proceed and then on the measure itself. In the 1970s, in addition, the "post-cloture filibuster" emerged, conducted by means of numerous motions and amendments rather than chiefly by debate. Its development was restrained by imposing an overall cap, now 30 hours, on total consideration of a matter under cloture. Several students of the Senate hold that Senators' apparent greater readiness to adopt dilatory tactics is a response to leadership's greater use of the cloture rule, and that as a result the filibuster has been "trivialized." Some have further argued that tougher requirements to get cloture, coupled with additional constraints on post-cloture consideration, would reverse this "trivialization."

Other noted recent changes in the filibuster itself may also stem from the shift from relying on endurance tactics to cloture in countering them. Today, Senators often need not conduct filibusters through actual extended debate, pursuing them instead through procedural devices and the threat of delay. The Senate may even agree to consider other matters while a disputed matter is delayed, which might be viewed as a form of filibuster by accommodation.

#### **B. Recent Developments.**

Beginning in the 1970s, several recent works argue, Senators increasingly pressed for active participation in legislation, deferring less to leadership (and committee) control. They pursued this objective through such means as

- non-germane amendments,
- active opposition to motions to proceed to consider measures,
- informal "holds" against consideration of measures,
- attempts to secure consideration of otherwise precluded amendments through appeals, Budget Act waivers, and the "defense of germaneness,"
- commemorative measures,

- "Sense of the Senate" provisions, and
- morning business speeches.

At the same time, the Senate's majority party, acting through its leadership, is today accorded the prerogative of managing the Senate's floor agenda, and in particular of offering requests and motions that the Senate proceed to consider measures. The leadership appears to have been searching for means to carry out these responsibilities more effectively, including not only increased reliance on cloture, but also attempts to

- forestall hostile amendments by using priority in recognition to fill amendment trees,
- offer counter-amendments to floor amendments,
- call up measures through the non-debatable motion to proceed in the Morning Hour,
- establish invoking cloture on a motion to proceed as tantamount to accepting the motion,
- limit the effects of "holds,"
- restrict use of the defense of germaneness,
- use omnibus measures in part to discourage changes in legislative packages,
- limit amendments through restrictive time agreements.

To the extent that such means are successful, however, they often tend to diminish the influence of individual Senators over Senate proceedings, and therefore to generate discontent, especially among Minority and rank-and-file Senators. A key issue, accordingly, is to what extent the Senate's traditional reliance on accommodative practices is being replaced, or ought to be replaced, by more managerial styles of control.

### C. Current Issues.

***Accommodative Versus Managerial Control.*** The development of Senate procedure suggests that rules that distribute potential control widely tend to foster practices of accommodation. Yet any set of rules may permit some limited set of Senators, whether representing a majority or a minority, to control policy outcomes. Using prerogatives under the rules in this way to achieve control tends to foster response in kind, so that practices of control increasingly tend to drive out those of accommodation. In such a situation, it becomes problematic not only whether accommodative practices should be preserved, but even how they could be preserved. Accommodation can proceed only with difficulty unless norms of comity and mutual adjustment predominate, but changing norms is much more difficult than changing rules.

Greater centralization of procedural control is often advocated as tending to permit more expeditious proceedings. Yet contemporary group dynamics theory holds that time initially spent discussing group process facilitates later substantive accomplishment. This premise suggests that traditional Senate

practices of accommodation might, in the long run, actually tend to foster, rather than to interfere with, effective policy processes.

**Accommodation and Efficiency.** Finally, however, accommodation itself, as well as obstruction, may be perceived as a source of delay and inefficiency. For example, the leadership today commonly (1) honors "holds" against considering measures, (2) times roll call votes to accommodate schedules, and (3) uses quorum calls to gain time for Senators to arrive or to work out policy compromises. Further, accommodations such as these may not only produce delays, but also facilitate Senators' absence from the floor, and some observers suggest that low attendance then encourages opposition by obstruction rather than by debate. If so, less deference to individual Senators and higher attendance might yield more efficient use of floor time. What approaches, however, might alter current norms that accept floor delays to accommodate low attendance?

## II. PROBLEMS AND PROPOSALS.

Although in the past decade several Senators and Senate organs have studied and proposed changes in Senate floor procedure and scheduling, none of their recommendations were comprehensively adopted, and in the 103d Congress, few formal proposals have addressed these issues. The following survey not only identifies current measures offered in this area, but also refers, as appropriate, to those other recent proposals.

### A. Cloture Procedure.

Since the 1975 change in the majority required for cloture, the focus of most proposals in this area has shifted to procedure once cloture is invoked, and to limiting debate on the motion to proceed. This shift suggests that the Senate now finds its procedure for invoking cloture adequately workable.

**Post-Cloture Amendments.** Current rules require amendments under cloture to be germane and prefiled, but attempts have sometimes been made to secure consideration of an amendment by appealing a ruling that it was non-germane. If such a practice became common, it could undermine the effectiveness of cloture, because Senators might become less willing to invoke cloture if they could not thereby effectively limit what matters they might then be compelled to consider under a time limit. Currently, S.Res. 26 would accordingly require the same majority to overturn a germaneness ruling under cloture as to invoke cloture (3/5 on most measures).

Also, S.Res. 27 would accommodate Senate practice to its very restrictive definition of germaneness by deeming committee amendments inherently germane under cloture. An alternative approach might be to require not germaneness, but relevance, for amendments under cloture. A standard of relevance is frequently used in time agreements today.

A third suggestion would establish an additional prefiling deadline in the cloture rule, for first-degree amendments to full text substitutes. Full text substitutes and first-degree amendments now have the same deadline, so that filing first-degree amendments to such substitutes may be precluded. Similar effects might be achieved by adding an earlier deadline for substitutes, even making them ineligible unless filed before the cloture motion.

**Post-Cloture Consideration.** The only specific current proposal to tighten such consideration further is S.Res. 28, under which time spent on a quorum call under cloture would be charged to against the hour allotted for debate under cloture to the Senator demanding the quorum call.

**Requirements for Cloture.** One recent proposal would reduce the vote required to invoke cloture by one (but not below a majority) for each day of consideration. Another approach might be to permit restrictions increasingly stringent, or by declining majorities, as the amount of debate and amending already accomplished increases.

#### **B. Amendment Process.**

The Senate now requires amendments to be germane only under cloture, on general appropriation bills, under certain rulemaking statutes, and by unanimous consent. However, it also interprets germaneness so strictly that some amendments relevant to the subject matter may yet technically be non-germane. For this reason, consent agreements for considering measures have increasingly in recent years required amendments to be relevant, rather than germane. No rule now permits a relevance requirement except by unanimous consent.

**Relevance of Amendments.** A blanket prohibition on all non-germane or non-relevant amendments would severely limit a long-standing prerogative of Senators, and there seems little sentiment for doing so. Numerous recent proposals, however, would permit the Senate by vote to restrict amendments to a specific measure. Such a mechanism would be no great departure, for the Senate today can achieve a similar results, albeit less neatly, by invoking cloture.

Many features common to these proposals are currently embodied in S.Res. 31, which would establish a motion to prohibit non-relevant amendments to a measure, under which (1) "sense of the Senate" amendments would not be *per se* relevant, and (2) a 3/5 vote would be required to overturn a ruling of the Chair on the relevancy of an amendment. This motion would (1) be in order twice per calendar day after the second day of consideration, (2) be debatable for two hours equally divided, and (3) require a 3/5 vote.

**Consideration of Amendments.** Certain recent studies of Senate procedure criticised the lack of predictability in the amendment process, and some therefore recommended considering measures section by section for



amendment. Such consideration, however, might not achieve its ends in the absence of some requirement of germaneness or relevance.

Some of these studies also recommended that amendments not prefiled be eligible for consideration only by a supermajority vote. Some also suggested strengthening current restrictions on the defense of germaneness by eliminating the requirement that the Senate vote on germaneness. Finally, some raised the problem of amendments that can be offered but not debated when time allotted under the Budget Act or a time agreement has expired. Despite recent experience with such situations, no specific proposals to address this last difficulty have been offered so far in the 103d Congress.

### C. The Motion to Proceed.

The motion to proceed to consider a measure is today fully debatable except under certain rulemaking statutes, on privileged matters such as conference reports and executive business, or when offered during the Morning Hour. In most Congresses, all but a couple of dozen measures are taken up without the necessity for a motion to proceed, and in most remaining cases, the motion appears to be opposed for the purpose less of blocking the measure than of securing favorable terms for its consideration. In this light, it seems likely that any general limitation on debate of such a motion would undercut a key incentive for the leadership to seek general accommodations among Senators, and thereby a central opportunity for individual Senators to affect floor proceedings.

**Holds.** It has been suggested that the obstacles to legislation raised by the informal practice of holds would be reduced if the names of Senators placing holds were required to be published. What ultimately gives a hold its force, however, is probably the threat of enforcing it by active opposition to a motion to proceed. As long as the opportunity to do so persists, it would seem difficult for leadership to adhere to its recurrent announcements that holds will not be automatically or indefinitely honored.

**Limiting Debate.** In recent years, general limits on debate of motions to proceed have frequently been advocated. Currently, S.Res. 25 adopts the most common suggestion of two hours' debate equally divided, but some plans have suggested less. One alternative would be to make cloture on a motion to proceed easier to invoke and stricter in application. Another would be to permit a motion to set a specific time limit on debate of an individual motion to proceed. Dilatory use of such a motion could be inhibited by limiting how often it could be offered. Like the similar motion for germaneness described above, such an approach might represent a less radical reduction of Senators' existing prerogatives than would a general limitation of debate.

**Alternative Forms of Consideration.** The current cloture rule is inflexible in that it offers only one set of terms for regulating debate and amendment of a measure. Some have proposed to establish additional sets of

terms for consideration, and to permit a new motion to proceed to consider a measure under those terms. Many such plans would require notice to offer, limited debate on, and a special majority to adopt such a motion. More flexibility than any of these, however, might be provided by permitting the present motion to proceed to specify terms of consideration, as a unanimous consent agreement now can do. Alternatively, the Senate's present seldom-used motion to suspend the rules might be used for such a purpose; it requires one day's notice, is debatable, and requires a 2/3 vote to adopt.

A combination of such devices might yield a flexible system in which the leadership could choose between (1) a motion that the Senate consider a measure under no special restrictions, on which debate would be limited and a simple majority required, and (2) a motion to suspend the rules and consider the measure with specified restrictions, on which consideration could be limited only by cloture and a special majority would be required, or (3) a unanimous consent request for consideration under specified restrictions, which could be debated only by consent.

#### **D. Enhancing Efficiency.**

Besides changes in cloture requirements, a variety of other recent and current suggestions propose to improve the efficiency of Senate floor action by reducing sources of delay and fostering more predictable forms of proceeding.

**Conference-Related Procedure.** Under S.Res. 29, the Senate would be permitted to go to conference by means of a single motion. Today three separate debatable questions are necessary, each of which has sometimes been used as an occasion for filibuster, although it would be virtually unprecedented for Senators to mount full filibusters on all in succession.

Also, S.Res. 30 would abolish the requirement that conference reports be read on demand. It may respond to recent instances in which this requirement was apparently used for purposes of delay. An earlier Senate reform panel proposed also that committees prepare summaries of differences between Senate and House versions of a measure before the resolution of such differences began. This suggestion seems intended more to improve information available to Senators for decision making than to reduce delays.

**Voting.** Roll call votes extending beyond the fifteen minutes stipulated in the standing order have often been criticised as exemplifying accommodative delay. Earlier proposals would

- restrict the time by rule,
- institute electronic voting, or
- strictly enforce the constitutional requirement that one-fifth of a quorum second a demand for a roll call vote.

It is unclear, however, that the Senate wishes to adopt rules eliminating these means of accommodating individual Senators.

**Commemorative Legislation.** Several recent proposals in both chambers would move the business of approving commemorative periods from the hands of Congress to those of a Commission that would recommend such observances to the President. The Senate now considers such measures only if half the Senate cosponsors them, and only in certain months. The change might marginally save time, but could eliminate an opportunity for Senators to take positions in support of the interests commemorated.

**Other Proposals.** Various Senate reform advocates have also advanced proposals to

- improve observance of rules by providing for a procedurally expert non-Member as permanent Presiding Officer,
- improve efficiency in considering measures by
  - restoring the use of the call of the calendar for passing routine measures, and
  - placing resolutions not immediately considered or referred on the Calendar of General Orders, rather than laying them "over, under the rule" to a point in the order of business that is seldom reached, or
- reduce delay, and promote attendance and genuine deliberation, by
  - requiring germaneness in debate at all times,
  - prohibiting the reading of speeches,
  - increasing real enforcement of quorum requirements, and
  - maintaining adherence to the recently attempted schedule of three full weeks in session in return for one full week of recess.

#### **E. Agendas and Scheduling.**

Earlier reform panels also suggested that the predictability and efficiency of Senate proceedings could be raised if Senate scheduling and agenda-setting were placed on a more formal basis. One suggested that Congress adopt an annual agenda by concurrent resolution, on the basis of which the leadership would announce legislative schedules a week in advance. Changing either the agenda or the advance schedule would require a 3/5 vote. Such a vote would also be required for the Senate to consider the same subject, or a previously defeated amendment, more than once in a session of Congress.

Such suggestions seem directed at keeping from the floor proposals with little chance of passage, and at improving Senators' "quality of life" by making schedules more predictable. Such restrictions, however, would presumably also reduce the flexibility of individual Senators, as well as of the leadership, in securing the consideration of proposals, and in responding to changing

• circumstances. The desire for such a system may represent a preference for shifting the basis of Senate floor action from political mutual adjustment toward routinized managerial control, a potentially profound change.

*Cabinet Question Period.* Recent proposals in both houses would establish a regular period for Cabinet officials to appear in a chamber and respond to questions. Such proposals are conceived as reflecting the regular "Question Time" practiced in the British and other parliamentary systems. In such systems, however, Ministers normally already have the right to participate in debate because they are themselves Members of the Parliament. Such practices seem designed primarily to improve opportunities for taking public positions.

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## Congress of the United States

JOINT COMMITTEE ON  
 THE ORGANIZATION OF CONGRESS  
 ROOM 175D FORD HOUSE OFFICE BUILDING  
 Washington, DC 20515-6775

May 12, 1993

TO : Joint Committee on the Organization of Congress

SUBJECT : Controversy About Recommittal Motions in the House of Representatives

During the past several Congresses, there has been increasing partisan controversy in the House over the appropriate interpretation and application of House rules and precedents governing the motion to recommit.

In brief, after third reading of a bill but before the vote on final passage, there is an opportunity for the House to act on one valid motion to recommit the bill to committee. Under well-established and accepted precedents, recognition to offer this motion is a prerogative of the minority party, should a minority member seek to exercise it. In addition to proposing to recommit the bill to a standing committee, the motion may include instructions to that committee, especially instructions to report the bill back to the House forthwith with an amendment contained in the text of the motion.

When the House adopts such a motion, the committee chairman then immediately rises and reports the bill back to the House which proceeds to vote on the amendment. In effect, therefore, such a motion to recommit presents a final opportunity for a minority party member to offer an amendment to the bill on the House floor, so long as that amendment meets the normal requirements of House procedures. The applicable rule is clause 4 of Rule XVI:

After the previous question shall have been ordered on the passage of a bill or joint resolution one motion to recommit shall be in order, and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or joint resolution. However, with respect to any motion to recommit with instructions after the previous question shall have been ordered, it always shall be in order to debate such motion for ten minutes before the vote is taken on such motion, except that on demand of the floor manager for the majority it shall be in order to debate such motion for one hour. One half of any



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debate on such motions shall be given to debate by the mover of the motion and one half to debate in opposition to the motion.

In recognition of the importance of this right to the minority party, clause 4(b) of Rule XI states that the Rules Committee shall not "report any rule or order which would prevent the motion to recommit from being made as provided in clause 4 of Rule XVI." This provision reflects an understanding that the majority party controls the Rules Committee and that, without such a prohibition, the Committee might therefore be tempted to propose special rules that foreclose the minority's ability to use the motion to recommit to force a floor vote on an amendment of its choice.

A problem arises, however, because clause 4 of Rule XVI does not state explicitly and unequivocally that a recommittal motion always may contain valid instructions. The first sentence of the provision quoted above provides that "one motion to recommit shall be in order" without specifying that the motion may contain instructions. The next sentence does refer to "any motion to recommit with instructions", but this can be interpreted as only relating to the debate that is in order if and when a recommittal motion includes instructions, without implying that instructions always are in order.

This is more than a problem of textual interpretation because, during the late 1980s, the Rules Committee reported a significant number and percentage of special rules that, in whole or in part, precluded the minority from proposing recommittal motions with instructions of its choice or any instructions at all. In various instances, the Committee proposed special rules that had the effect, directly or indirectly, of prohibiting a motion to recommit from containing any instructions or certain kinds of instructions. Whatever the form these provisions took, they were interpreted by the minority as an inappropriate intrusion on one of its most important parliamentary prerogatives.

According to data compiled by Donald Wolfensberger, Minority Staff Director of the House Rules Committee, and inserted by Representative Solomon in the *Congressional Record* of January 5, 1993, only 15 (or 2.1 percent) of the 700 special rules the Rules Committee reported between 1978 and 1984 (95th-97th Congresses) either precluded or restricted amendatory instructions in recommittal motions. By contrast, there were 14, 24, and 21 such rules granted in each of the following three Congresses respectively, constituting more than 17 percent of the 342 rules reported during 1985-1990.

As the number of such rules increased so did Republican complaints that their rights under House rules XI and XVI were being violated. Whether or not in response to these complaints, there were restrictions or prohibitions on recommittal instructions in only six (or 5.7 percent) of the 105 rules that the Rules Committee granted during the 102nd Congress of 1991-1992 for initial House floor consideration of bills and joint resolutions.

In one sense, the importance of recommittal motions has declined since 1971 when the House began to permit recorded votes on amendments in Committee of the Whole. Before then, the only way in which the minority party could secure a public record of Members' positions on its primary policy alternative to the majority party's position was by proposing that alternative in a motion to recommit with instructions. The minority could secure a rollcall vote on this motion because it always has been considered in the House, not in Committee of the Whole. Since the House authorized recorded votes on amendments in Committee of the Whole, Members have been able to secure such votes on major amendments when they are offered, making it unnecessary to resort to recommittal motions for that purpose.

In another sense, however, recent trends in special rules have highlighted the importance of recommittal motions. With increasing frequency since the late 1970s, special rules that bring bills to the floor for initial debate and passage have, to one degree or another, restricted the rights of Members to propose amendments that House rules and precedents otherwise would permit them to offer. Again according to data gathered by Mr. Wolfensberger and inserted in the *Record* on January 5, 1993, such restrictive rules constituted 55 percent in the 101st Congress and 66 percent in the 102nd Congress of all rules for initial consideration of legislation (except for rules only to waive points of order relating to appropriations measures). Although such rules sometimes receive bipartisan support, they often are criticized for preventing minority party members from proposing the amendments of their choice. In this situation, the minority once again may have to rely on the motion to recommit in order to present its position and compel a rollcall vote on it.

The authority of the Rules Committee to report special rules that restrict or prohibit amendatory instructions in recommittal motions is defended by reference to a 1934 ruling by Speaker Rainey. It is possible to argue that this ruling did not respond to the precise point of order that had been made and that the ruling did not fully take account of the legislative history of the rules in question. Whatever the merits of those arguments, the 1934 ruling has provided a precedent for overruling points of order against more recent special rules that impinged on the minority party's discretion in framing recommittal motions.

The Joint Committee may consider whether this is a problem that intrudes significantly on minority rights. If the Committee finds that it is such a problem, it then may ask whether the Committee needs to address it or whether the record of the 102nd Congress indicates that it already is diminishing. If the Joint Committee chooses to address this issue, it may review its legislative history and determine whether the historical record convincingly supports the Rules Committee's discretion or the minority party's critique. Alternatively, the Joint Committee may approach the issue by asking what resolution of the dispute will best serve the House today and in the future as it continues to maintain the delicate balance in its procedures between majority prerogatives and majority rights.

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For Members interested in more information on this subject, it was the subject of a May 6, 1992, roundtable discussion before the Subcommittee on Rules of the House; the transcript of this discussion is available from the Rules Committee as a Subcommittee Print of the 102nd Congress, 2d Session.

**Motions to Suspend the Rules Offered in the  
House of Representatives, 98th-102d Congress (1983-1992)**

Congress	Years	Motions to Suspend the Rules
98th	1983-1984	421
99th	1985-1986	428
100th	1987-1988	617
101st	1989-1990	572
102d	1991-1992	613

## Bills and Joint Resolutions Passed by the House of Representatives: 94th-102nd Congresses

Form of Consideration	Congress									
	94th	95th	96th	97th	98th	99th	100th	101st	102nd	
Considered in Committee of the Whole:										
Under a special rule	217	164	152	89	110	85	104	77	103	
As a privileged appropriations, budget, or rescission measure	40	33	26	28	26	24	23	32	31	
Under a rule-making statute	0	0	2	0	0	3	1	0	0	
From the Union Calendar on Calendar Wednesday	0	0	0	0	0	0	0	0	0	
From the Union Calendar, discharged by motion	0	0	0	0	0	0	0	0	0	
Subtotal	(257) (23.7%)	(197) (16.9%)	(180) (17.0%)	(117) (15.3%)	(137) (13.3%)	(112) (11.0%)	(128) (11.6%)	(109) (11.1%)	(134) (13.5%)	
Considered in the House as in Committee of the Whole:										
Under a special rule	0	0	6	0	0	0	0	0	0	
As an appropriations or rescission measure, by unanimous consent	11	12	4	0	2	0	2	0	0	
From the Union Calendar and the Consent Calendar	44	49	40	45	27	17	14	3	0	
As a private measure under Rule XXIV	188	203	138	58	75	48	64	32	34	
As District of Columbia business, by unanimous consent	13	14	8	5	13	5	1	1	7	
Subtotal	(256) (23.5%)	(278) (23.9%)	(196) (18.5%)	(108) (14.1%)	(117) (11.3%)	(70) (6.9%)	(81) (7.3%)	(36) (3.7%)	(41) (4.1%)	



Form of Consideration	Congress									
	94th	95th	96th	97th	98th	99th	100th	101st	102nd	
Considered in the House:										
Under a special rule	5	2	6	4	5	9	9	4	18	
By unanimous consent, as an appropriations or rescission measure or a D.C. bill	0	1	2	8	3	9	3	9	10	
As a privileged measure on the House Calendar	0	0	1	1	0	1	0	1	0	
From the House Calendar and the Consent Calendar	10	42	28	9	17	16	13	0	0	
From the House Calendar on Calendar Wednesday	0	0	0	0	0	0	0	0	0	
From the House Calendar, discharged by motion	0	0	0	0	0	0	0	0	0	
As a Senate measure "passed in lieu"	115 (130) (12.0%)	130 (175) (15.0%)	131 (166) (15.6%)	66 (88) (11.5%)	57 (82) (7.9%)	49 (84) (8.3%)	23 (48) (4.4%)	48 (62) (6.3%)	37 (65) (6.6%)	
Subtotal										
Considered by unanimous consent and passed without objection	150 (13.8%)	124 (10.7%)	179 (16.9%)	201 (11.5%)	327 (31.6%)	401 (39.5%)	344 (31.2%)	276 (28.0%)	240 (24.2%)	
Considered under suspension of the rules	290 (26.8%)	389 (33.4%)	340 (32.0%)	251 (32.8%)	371 (35.9%)	349 (34.3%)	502 (45.5%)	502 (51.0%)	510 (51.5%)	
Total	1083	1163	1061	765	1034	1015	1103	985	990	

**Notes on sources and methods:** It being impractical to examine the proceedings in the *Congressional Record* on each of the thousands of bills and joint resolutions the House passed between 1975 and 1992, this table is based instead on a combination of sources and methods. The catalogue of bills and joint resolutions passed during each Congress is taken from the section of the final edition of the *House Calendar* entitled "Numerical Order of Bills and Resolutions Which Have Passed Either or Both Houses, and Bills Now Pending on the Calendars." (Excluded are joint resolutions raising the public debt ceiling which the House is deemed to have passed, pursuant to House Rule XLIX, upon adoption of the conference report on a budget resolution.) The summaries of legislative action on each such measure are the basis for data on (1) measures considered under suspension of the rules, (2) private measures under Rule XXIV, (3) Senate measures "passed in lieu," after passage of House companion measures, and (4) routine designation ("naming"), proclamation, commemoration, and memorial measures considered by unanimous consent after committee discharge. (The category of private measures under Rule XXIV, considered in the House as in Committee of the Whole, includes the few private measures considered instead by unanimous consent upon committee discharge or receipt from the Senate, but it does not include the very few such measures considered (1) under suspension of the rules or (2) in the House as Senate measures "passed in lieu." Thus, this category does not quite include all the private measures which the House passed in one way or another.) Data on measures considered under special rules are taken from the "Rules Granted" section of the final *Calendar* of the House Rules Committee for each Congress. The *Congressional Record* or *House Journal* was consulted for information about consideration of (1) measures reported by the District of Columbia Committee, and (2) appropriations, budget, rescission, and other privileged measures. For the remaining measures, the bill files of the SCORPIO data base of the Library of Congress generally permitted identification of those called up and passed from the Consent Calendar (after having been placed on the House or Union Calendar), and those considered by unanimous consent and passed

without objection. The information in this data base was assumed to be accurate whenever it was unambiguous and plausible; in the remaining cases, the information was confirmed or corrected by reference to the *Record or Journal*. It is possible, and even likely, that these data-collection procedures resulted in occasional errors.

RSB/SB/jb

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JOINT COMMITTEE ON  
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 Washington, DC 20515-6775

TO: Members of the Joint Committee on the Organization of Congress

SUBJECT: The Evolution of House Minority Parliamentary Rights

### The Parliamentary Philosophy of the House

The rules and practices of a legislative body must accommodate two conflicting parliamentary needs. A legislative body exists both to debate policy proposals and to decide on which policy proposals to endorse. If the body is debating it has not yet decided; and if it has decided, necessarily debate has stopped. Within this debate-decision dichotomy, lies another philosophical division: what are the parliamentary needs of the majority in processing legislation, and what are the fundamental claims of the minority to fair treatment?

Debates over these issues have been a constant for two centuries. The framers of the Constitution assumed that the House of Representatives would be a place of fairly rapid legislative action. "Delegates fresh from the people," as Alexander Hamilton called House Members, would be eager to convert their recent electoral mandates into law. As the House grew in size and as legislative workload increased, the House periodically rewrote its rules limiting debate and limiting the parliamentary prerogatives of individual Members in the interest of expeditious action. Necessarily, these changes reduced the rights of individual Members and, often, the rights of the political minority in the House. But, at various times, specific rules were adopted to protect what were viewed as fundamental protections for political or issue minorities. This memorandum examines, in general terms, the evolution of the concept of majority rule and minority rights under House Rules, primarily as such rules apply to floor action.

### Hour Rule, Five-Minute Rule, and the Previous Question

In the early Congresses, there were no limitations on the length of speeches in the House or in the Committee of the Whole. Although the House has always

permitted the previous question motion halting debate at the demand of a majority, the motion was expressly banned in Committee of the Whole where most bills were debated and amended in great detail.

At this time, therefore, the primary debate restriction came in the form of the two-speech rule banning Members from speaking twice on the same subject on the same day. Thus, in these early years, virtually no barrier existed preventing all Members, majority and minority, from speaking at length on any and all matters to come before the House.

In 1841, with the growth in the size of the House and the increase in legislative workload, such latitude could no longer be entertained. In that year, the House adopted the earliest version of the one-hour rule providing that no Member "shall occupy more than one hour in debate on any question in the House or in committee." In 1847, debate time in the Committee of the Whole was further restricted with a rule limiting the sponsor of an amendment to five minutes debate time to explain the proposal; in 1851, the rule was expanded to provide for five minutes to opponents of the amendment to explain their views. These basic time grants still form the basic for debate time limits in the House and in the Committee of the Whole.

### **Disappearing Quorum**

Under the established practices of the 19th Century House, a yea-and-nay vote was not official unless an absolute majority of the House Members participated in a vote. It was not uncommon for minority party members to refrain from voting and thus force the majority not only to achieve the necessary majority for passage of a bill but also to supply a majority quorum.

During the period of the Civil War and its aftermath, the House Rule required that a quorum consisted of a majority of the Members chosen and living. When the parties were nearly equal in strength, or when a bloc of third-party Members were also serving, majority control was seriously in doubt. It was during this period that minority voting abstentions became common. Thus, the minority could actively participate in debate and then abstain from voting. If a sufficient number of majority Members were ill or absent for a vote, the measure could not pass and often the House would be forced to adjourn for the day.

In 1890, Speaker Thomas B. Reed (R., ME) took action to overcome the disappearing quorum tactic. He announced that he would count Members present in the Chamber but not responding to the roll call. On appeal, his decision was sustained by vote of the House, and was subsequently incorporated into the Rules of the House. The Reed Rules of 1890 firmly established the right of the majority to move legislation through the House and form the philosophical underpinning of House

Rules to this day. Reed once observed that the job of the majority was to enact its legislative program, and that the job of the minority was "to draw their pay and make a quorum."

In 1891, when the Democrats regained control of the House, they amended the rules to return to the old language. Reed, then minority leader, successfully re-adopted the old disappearing quorum tactic and delayed or stopped many Democratic agenda items. In 1893, the Democrats changed the Rules again, reaffirming the right of the Speaker to count silent Members to constitute a quorum, an action which former Speaker Reed endorsed. In the view of some, this rules change constituted a major diminution of minority rights; others claimed it was a necessary modification of rules and practices in order to permit the majority to carry out its responsibilities to process legislation.

In intervening years, quorum requirements in the House and in House committees have become less stringently enforceable. Members are no longer entitled to a point of order on the grounds of no quorum except as it relates to an immediately pending vote in the House or in Committee of the Whole. The Speaker retains the sole authority to recognize a Member "to move a call of the House" at other times. In the 103d Congress, House Rules were further amended to authorize "rolling quorums" in committee thereby requiring Members to be present only briefly during a meeting to establish the quorum.

#### **Discharge Petition**

The current rule to discharge committees from consideration of a bill dates from 1910. Although technically usable by members of either party, the rule (in its early versions) was particularly useful to minority party Members in forcing a House vote on whether to take a particular bill from committee and bring it to the floor for consideration. Subsequent changes in the discharge rule have limited its use by the minority, except in extraordinary circumstances.

Initially, any Member could be recognized on "discharge days" to move the discharge of a bill pending in committee for more than thirty days. Immediately, a majority "second" (by tellers) was taken, and if successful, the discharged bill came to the floor under ordinary House Rules.

Later, the House developed the concept of a discharge petition (rather than ordering a second) to gauge the threshold of support. The most liberal form of the rule existed in the 68th Congress and in the 72d and 73d Congresses. In these three years, only 150 signatures (68th Congress) and 145 signatures (72d-73d Congresses) were required on the petition before the House voted on whether to discharge the named committee and take up the bill. But, in the 74th Congress the rule took on its current form when the House reinstated the requirement for 218 signatures.



In addition to the signature threshold, the effectiveness of the rule has been impeded by rulings from the chair stating that a discharged bill may only be considered on a discharge day (now the second and fourth Mondays of each month). Thus, if the House discharges a bill and takes it up but does not finish it quickly, the bill may go over for two additional weeks. The discharge rule was initially devised as a way for rank-and-file Members to take a bill away from a hostile committee. In its early forms, the rule seemed drafted to readily allow the minority to force "test votes" on discharge proposals. But subsequent rules changes and rules interpretations have limited the effectiveness of the discharge rule, except as an indirect means to force action by a reluctant committee.

### **Minority Staffing on Committees**

The history of apportioning a share of committee staff to control by the minority party members is checkered and varied in the House. Before the 1946 Legislative Reorganization Act, each committee staff position was authorized by House resolution. Committees with higher workload or more persuasive leaders were able to obtain more staff positions. None of these early committee staff positions were earmarked for control by minority party members. However, it is likely that informal custom gave some staff appointment power to certain ranking minority members. In addition, it was not uncommon before 1946 for certain minor committees to be chaired by minority party members. Chairing such a committee brought with it a small number of committee staff positions that then might be used to aid the senior minority Member in his or her other committee work.

The 1946 Legislative Reorganization Act established the so-called statutory committee staff positions. Initially, these positions were to be filled "without regard to partisan affiliation" of the staffer. The 1970 Legislative Reorganization Act increased the number of authorized statutory staff positions from ten to twelve, and earmarked one-third of these positions for appointment by the minority party members of a committee.

By the 1970's, it had become universal for House standing committees to request additional so-called "investigative" staff hiring authority. Authority for these positions were provided through annual funding resolutions approved by the House. Twice (Legislative Reorganization Act of 1970 and the House Committee Reform Amendments of 1974) the House, in considering committee reorganizations, voted to provide the minority party one-third of these supplemental positions as well. And twice, the Rules of the House were changed at the beginning of the succeeding Congress (H.Res. 5 of 1971 and of 1975) to cancel the one-third minority staff set aside for investigative staff before the earlier provision could go into effect. The 1975 rules change included a provision guaranteeing the ranking minority member of each subcommittee (up to a maximum of six subcommittees) the right to appoint one staff

person to be paid from committee investigative funds. Effectively, the minority could be guaranteed ten of thirty statutory staff positions, and up to six additional subcommittee staff positions.

In recent years, the House Administration Committee has grown more sensitive to minority demands for staff provided through funding resolutions. However, the House Democratic Caucus has adopted language in its rules prohibiting the Democratic Members of any committee from agreeing to a committee investigative staff budget providing more than twenty percent of such staff positions to the minority. House minority members seek, at a minimum, guarantees similar to those in the Senate assuring the minority since 1981 a minimum of one-third of all committee staff positions and operating funds.

#### **Limitation and Retrenchment Amendments**

The prohibition against including legislative provisions in general appropriations bills dates from 1837 and was agreed to in order to prevent the delay of essential spending bills because of disagreement over contentious legislation. In 1876, Rep. William S. Holman (D., IN.) proposed a rules change, ultimately adopted, permitting legislation on an appropriations bill if the result of such legislation was to reduce the number and salary of officers of the United States, to reduce the compensation of any person paid from Government funds, or to reduce (or "retrench") the amounts of money contained in that appropriations bill. In various forms, the rule survived (with brief interregnums) until 1983.

Similarly, the House long has recognized that it retains the authority to selectively appropriate funds for purposes previously authorized. Generally, the House has permitted the inclusion (by the Appropriations Committee or by floor amendment) language "limiting" an appropriation. Typically, such limitations state that no funds in the bill may be used for a specific proscribed purpose.

Both types of appropriations amendments have long been used by fiscal conservatives in both parties to reduce Government operating costs. Additionally, the minority party found such amendments useful in challenging various aspects of on-going government programs, generally when parliamentary circumstances did not provide a legislative opportunity elsewhere to raise these issues.

The House Democratic Caucus in 1983 endorsed a rules change adopted that year placing substantial limits on retrenchment and limitation amendments. Under the new rule, no limitation or retrenchment amendments could be offered in Committee of the Whole to a general appropriations bill unless (1) the Committee of the Whole first disposed of all money amendments to the bill and (2) the Committee of the Whole rejected a motion to rise and report the bill to the House. However, the majority

dominated Appropriations Committee retained the right to include legislative provisions and limitations in reported versions of appropriations bills.

The rules change effectively prevents rank-and-file House Members from selectively challenging the spending decisions of the Appropriations Committee. The only alternatives available to rank-and-file Members are offering amendments which cut all appropriations in the bill by a standard across-the-board percentage. The House has generally failed to support such amendments, including one which had the effect of reducing funds in the bill by less than \$20.

### **Motion to Recommit**

The motion to recommit has been recognized in House Rules since 1789. The motion is permitted only in the House (not in the Committee of the Whole) and if agreed to sends a bill back to the committee which reported it. For the first century of its existence, the recommittal motion was the preserve of a majority party committee member and was intended to allow the committee one final opportunity to make minor corrections in the bill before presenting it for final approval by the House.

In 1909, however, the basic thrust of the rule was changed. In that year, a number of rules changes were adopted to counter growing opposition to the power of the majority and the Speaker, and to Speaker Cannon in particular. Among the rules changes was a revision in the motion to recommit guaranteeing priority recognition by the Speaker to an *opponent* of the bill.

The motion traditionally has been permitted by the House in two forms: a motion to recommit and a motion to recommit with instructions. Before the 1909 rules change, the so-called "straight" motion to recommit offered by supporters of the bill sent the it back to committee and gave the committee *carte blanche* to make technical or substantive revisions in the measure. After the rules change, the motion (having been offered by opponents of the measure) had the effect of killing the bill indirectly just before a vote on final passage.

After the 1909 rules change, the parliamentary effect of the motion to recommit with instructions obviously changed as well. Before, the motion had been used by supporters of the bill to gauge House sentiment on one final revision to it. After 1909, it provided the minority with an opportunity to bring to the House floor for a vote the minority's preferred version of the bill. As Speaker Gillett observed in 1919, "A motion to recommit is intended to give the minority one chance to express fully their views so long as they are germane. The whole purpose of the motion to recommit is to provide a record vote on the program of the minority."

However, the right to offer a simple motion to is guaranteed in the House Rules.

Whether this guarantee includes the right to include instructions in recommittal motions is a question of precedent, and the weight of precedent in this areas is under dispute. Priority recognition is given to a minority party committee member opposing the bill, and thereafter (if no minority committee members exercised their right), then the Minority Floor Leader, followed by rank-and-file minority party members in that order.

On isolated occasions, the Rules Committee limited the minority's ability to make a motion to recommit with instructions. In recent Congresses, however, the minority's right to offer a motion to recommit with instructions has been at issue.

The 1974 Congressional Budget Act sets up special procedures for the consideration of a budget resolution. The Act prohibits the offering of a motion to recommit (with or without instructions) to a concurrent resolution on the budget or to a budget conference report.

The balance between the parties was further altered in the 99th Congress when the rule providing for ten minutes debate equally divided on a motion to recommit with instructions was changed to allow the *majority* floor manager discretion to demand one hour of debate equally divided on motions to recommit.

More substantial inroads have lately become common in rules from the Rules Committee. Beginning also with the 99th Congress, the Rules Committee began to preclude the offering of motions to recommit with instructions on certain bills. In the intervening Congresses, about fifteen percent of the rules adopted by the House have contained such restrictions. The Rules Committee in limiting such motions, has relied on precedents set in the 1930's.

The majority argues that, if a rule makes in order a substantial minority alternative to a bill (such as a leadership substitute), the rights of the minority are not undermined if the rule prevents rank-and-file minority Members from offering a last minute alternative to the bill. Minority Members have argued that the current parliamentary environment routinely limits minority amendment opportunities. Prohibiting a motion to recommit with instructions, they argue, is an example of majority insensitivity to long-standing House practices to protect minority rights. In policy terms, they have claimed that the increasing ban on instructions prevents the House from voting on alternatives that might win.

### **Restrictive Rules**

Since the 1880's, the House has consistently interpreted the authority of the Rules Committee to report at any time on the "order of business," to mean that the Rules Committee, by resolution, may propose taking a bill up out of order and



providing for debate and amendments to the bill under such procedures as it may deem advisable. When approved by the House, such resolutions govern debate and amendments on the specified bill.

Traditionally, rules from the Rules Committee have been classified by the degree to which they permit amendments to be offered in the Committee of the Whole. Closed rules ban all amendments except for committee-reported amendments; open rules permit any germane amendment; and the term restrictive rules has come to be applied to a rule which limits amendments to some degree but does not ban them completely.

In the 1950's and 1960's, liberal House Democrats campaigned against closed or restrictive rules endorsed by a conservative bloc of senior Democrats and Republicans on the Rules Committee. Attempts to enlarge the size of the Rules Committee, coupled with Democratic Caucus rule changes giving the Speaker the authority to nominate all Democrats to the Rules Committee effectively ended bipartisan conservative control of the panel.

These House and party rule changes also ushered in a brief period during the 1970's when the Rules Committee generally did not restrict the ability of Democratic and Republican Members to offer germane amendments. In the 95th Congress, for example, 85 percent of the rules from the Rules Committee were open rules (179 out of 211). This percentage has declined in succeeding Congresses so that only one-third of the rules in the 102d Congress were open, and up through May 14, 1993, one of eleven reported rules in the 103d Congress have been open.

The majority leadership argues that rule restrictions are necessary to allow committee managers to know what amendments will be offered so they can prepare for floor debate. Restrictive rules can also make the schedule more predictable and reduce wasted time. However, restrictive rules can allow large portions of bills to escape modification in the Committee of the Whole. A rule from the Rules Committee could simply require advance prefiling of anticipated amendments and still provide floor managers with ample time to prepare counter arguments and strategy. However, some minority Members oppose even limited prefiling requirements arguing that such notice would allow others ample time to draft second degree amendments to their proposals, thus preventing an up-or-down vote on prefiled amendments.

The data show that, disproportionately, the Rules Committee prevents Republican members from offering floor amendments. Minority members believe they are being denied the right to a hearing by the full House, especially since the underrepresentation of the minority on committees makes it more difficult for their amendments to win in that forum.



### Concluding Observations

It is generally conceded by observers from both parties that the House is an institution organized on the principle of majority rule and certainty of quick decision. Major disputes center around determining which parliamentary rights are fundamental to protecting the issue or political minority in the House. These disputes are not new, and reflecting a constantly changing balance between the majority and minority throughout the history of the House.

Supporters of current practices can point to other House Rules and long-standing customs which allow the exposition of minority issue or party preferences. These include such rules as: guaranteed summoning of witnesses demanded by the minority at committee hearings; guaranteed inclusion of minority, additional, and supplemental views in committee reports; guaranteed minority representation on committees and conferences. To these might be added customary protections such as: priority recognition to the minority for special order speeches, equal division of time between the majority and minority managers under the one-hour rule, reluctance to offer a previous question motion or motion to end debate prematurely, and the relatively unrestricted allowance of *pro forma* amendments even under restrictive rules. Such protections allow the majority to control the agenda and the pace of work, and still grant the minority more influence in the legislative process than in most national legislatures.

The minority contends however that these protections are not enough. The focus of these protections is on oral or written communications to the House and to the public. The minority's concerns lie in restrictions which inhibit their right to offer policy alternatives, access to adequate staff to help frame these alternatives, and the ability to get a public vote on such proposals. They argue that inadequate committee staffing, restrictive rules from the Rules Committee, denial of the opportunity to offer instructions on motions to recommit, and constraints placed on limiting government spending undermine the minority's appropriate role in the legislative process.



Congressional Research Service • The Library of Congress • Washington, D.C. 20540

TO : Joint Committee on the Organization of Congress  
Attention: Walter Oleszek

FROM : Ilona Nickels *ibn*  
Analyst, American National Government  
Government Division

SUBJECT : Senate's "Three weeks on; One week off" Schedule

Recent reform discussions have focused on the possibility of the House adopting to the reputed Senate schedule of "three weeks on; one week off" per month. That the Senate has actually been adhering to the "three/one" pattern is assumed during these discussions. However, this has not been the case.

The Senate has not truly adhered to the "three/one" schedule since its inception in 1988 (see Senate calendars attached.) As then Majority Leader, Senator Robert Byrd announced the new schedule on December 8, 1987 (see *Congressional Quarterly* articles attached.)

The Majority Leader made clear at the time that the "three/one" schedule meant three *full* work weeks of 5 days each, with one full week off. During the subsequent year of session, in 1988, the Senate adhered to this exact pattern 6 months out of the 10 months it was in session.

However, once Senator George Mitchell became Majority Leader, beginning with the 101st Congress in 1989, the general pattern of adherence ended. In 1989, the Senate was in session for 11 months, adhering to the pattern in *none* of them. In 1990, the Senate did meet according to the "three/one" schedule for 2 months out of the 10 months it was in session. In 1991, the Senate was in session for 11 months, adhering to the pattern for only 1 month. And in 1992, the Senate adhered to the "three/one" schedule for 1 month out of the 10 months it was in session.

If one wishes to define the "three weeks on/one week off" schedule as *no less than* four-day work weeks, the pattern of adherence increases but still falls far short of total compliance. Using the standard of at least four days in session per week, the Senate complied 4 months out of 11 in 1989; 5 months out of 10 in 1990; 4 months out of 11 in 1991; and 4 months out of 10 in 1992.

## CRS-2

If one wishes to define the "three weeks on/one week off" schedule as *less than* four days of session per week, the pattern of adherence increases further but still does not achieve full conformity. Using that standard, the Senate complied 8 months out of 11 in 1989; 7 months out of 10 in 1990; 6 months out of 11 in 1991; and 6 months out of 10 in 1992.

Expressed in percentages, the compliance record looks like this:

**Compliance rate with "Three/One" defined as five day work weeks**

1988:	60%
1989:	0%
1990:	20%
1991:	9%
1992:	10%

**Compliance rate with "Three/One" defined as four day work weeks**

1988:	60%
1989:	36%
1990:	50%
1991:	36%
1992:	40%

**Compliance rate with "Three/One" defined as less than four day work weeks**

1988:	70%
1989:	73%
1990:	70%
1991:	55%
1992:	60%

I hope this analysis puts the current discussion and widely held assumptions in some perspective. Please call me with any questions. I can be reached at 7-8670.

IN:pjg

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## Congress of the United States

JOINT COMMITTEE ON  
 THE ORGANIZATION OF CONGRESS  
 ROOM 1750 FORD HOUSE OFFICE BUILDING  
 Washington, DC 20515-6775

TO: Joint Committee on the Operation of Congress

SUBJECT: Senate Use of the Cloture Rule

## SUMMARY

The cloture rule provides the only motion by which the Senate can terminate consideration of a matter when some Senators still wish to debate it. Because invoking cloture requires more than a simple majority vote, a minority of Senators may be able to prevent a decision on a matter by filibustering.

Before 1917 the Senate had no cloture rule, and until 1949 cloture could not be sought on a motion to proceed to consider a measure, so that measures could still be blocked by filibustering that motion. Until at least 1959 cloture was seldom moved, and the Senate tended to accept the result of a single cloture vote as settling whether the filibuster would succeed or stop. Beginning in the early 1970s, however, Senate leaders began to seek cloture with roughly contemporary frequency (about 16-24 matters per Congress), and cloture became an accepted tool for managing Senate floor proceedings. In 1975, the Senate reduced the vote usually needed for cloture from two thirds of Senators present and voting to three fifths of the full Senate. Apparently as a result, cloture came to be invoked more often than not, and the average number of cloture attempts per item of business fell to somewhat over two, levels that have since generally been maintained.

Most data on cloture focus on the number of cloture votes, thereby neglecting (1) cloture motions not voted on and (2) the number of separate items of business on which cloture is moved. Data on the latter permit distinguishing the extent of situations in which cloture is sought from their intensity.

Such data show the frequency of cloture attempts generally rising since the 95th Congress. Usually, in recent Congresses, a sizable minority of issues on which cloture is sought are ultimately resolved without cloture vote, and cloture is ultimately invoked in more than half the remainder. Also, cloture today is generally moved more often on an amendment or, especially since 1989, on a motion to proceed to consider, than on an item of business itself. Cloture attempts in the resolution of Senate-House differences have always been few.

The 97th and 100th Congresses, when party control of the chamber shifted, saw unusually intense cloture attempts and low success rates. The intervening period exhibited increasing numbers of cloture attempts and generally favorable success rates. The period since the 100th Congress also has shown cloture sought on an expanding number of items of business, but averaging much below twice per item, with no evident decline in success rates.

Overall, these findings suggest that achieving cloture today often takes more than one vote, but once invoked, Senators still tend to desist from a filibuster, while if cloture is still rejected after a few tests, supporters tend to abandon the measure in question. The Senate today is clearly continuing to consider whether this level of effectiveness is appropriate to its contemporary needs and nature.

## THE ROLE OF CLOTURE

The key functions of the cloture rule are bound up with the management of situations that Senators see as involving intractable conflict over policy questions. Most previous data on this subject focus on the numbers of cloture votes and their outcomes. Such data do not permit addressing several significant questions about the role of cloture in Senate practice. The data presented here instead encompass information on the number of *items of business* on which cloture motions are *filed*; an item of business is defined as a legislative measure, treaty, or nomination.<sup>1</sup>

### The Intent of Cloture

The cloture rule's ostensible purpose is to permit the Senate to reach a decision on a policy question against the opposition of a filibuster. Filibusters presumably occur when opponents of a measure, and cloture attempts occur when its supporters, see no prospect that accommodation with their antagonists would resolve a policy conflict in ways acceptable to them. If so, then the frequency of cloture attempts should serve to indicate how often Senators find it appropriate to pursue antagonistic rather than accommodative strategies to resolve policy conflicts.

Such information alone could not properly yield any conclusions about the relative depth of actual policy differences among Senators. Nor could it reveal

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<sup>1</sup> Other discussions that address the number of matters on which cloture is sought, rather than only the number of cloture votes, include the following. Smith, Steven S. *Call to Order: Floor Politics in the House and Senate*. Washington, Brookings, 1989. p. 94-99. Oppenheimer, Bruce I. Changing time constraints on Congress: historical perspectives on the use of cloture. chap. 17 in Dodd, Lawrence C., and Bruce I. Oppenheimer. *Congress Reconsidered*. 3d ed. Washington, CQ Press, 1985. see esp. p. 401.



whether opponents or supporters are "responsible for" fostering an atmosphere of antagonism or accommodation. Cloture attempts may be infrequent in periods either when opponents seldom choose to filibuster or when supporters usually choose to defer to one; they may be frequent either in response to opposition that readily resorts to filibusters, or because supporters are readily attempting to override opposition. Each side, if charged with adopting an intransigent position in such a case, would often claim that the position of the other left it no alternative (and both at once might arguably be right).

Although no quantitative data seem capable of determining such matters, data on the frequency of cloture attempts may support inferences about the relative general strength of antagonistic and accommodative approaches to policy conflicts in the Senate at different periods.

### Frequency of Cloture Attempts

The number of cloture votes fails to offer a truly satisfactory measure of how often cloture is attempted. Not all cloture motions reach a vote; accordingly, counting cloture votes alone would tend to underestimate how often Senators find it appropriate to seek cloture. For this reason the data below examine not only cloture votes, but all cloture motions offered.

Under contemporary conditions, however, the number of cloture motions offered would also offer an inadequate view of how often cloture is attempted. In earlier days, cloture was seldom sought more than once on any given measure, so that if filibusters were threatened on five measures during the course of a Congress, cloture might be moved once on each. In the same circumstances today, however, cloture might be moved four times in response to each filibuster. The difference between two such Congresses in number of cloture motions offered could not properly be taken as revealing a rise in antagonistic policy conflict. It would actually reflect only that multiple cloture attempts on a single issue had become accepted practice.

For these reasons, the present data measure the frequency of cloture attempts by the number of separate items of business on which cloture was moved. For this purpose, all cloture motions filed in relation to a given item of business are counted for that item, no matter the specific object of each motion (measure, amendment, motion to proceed, etc.).

This approach allows separate examination of the number of items of business on which cloture is sought and of the number of attempts made to obtain cloture on each. The number of attempts per issue may indicate how difficult it is to overcome filibusters, or how determinedly cloture was sought (or both). The number of issues may indicate how many policy conflicts foster intransigent approaches either by opponents or by supporters (or both). In short, the number of attempts per issue may reflect the *intensity* of policy conflict; the number of issues may reflect the *extent* of antagonistic policy

conflict. Data only on the number of cloture motions would mix the effects of these two components.

### The Rate of Cloture

Data on the disposition of cloture motions bear particularly on the question of how effective the cloture rule is in overcoming intractable opposition to measures. In interpreting such data appropriately, however, arguments similar to those just developed apply. Under today's conditions, cloture might be attempted on a dozen bills, and on each bill be defeated on the first four attempts, but succeed on the fifth. In this case only 20% of the cloture attempts succeed, yet cloture could best be considered effective in overcoming each filibuster. Accordingly, a meaningful judgment of the rule's effectiveness can most appropriately be based, again, on the proportion not of cloture *motions*, but of *items of business*, on which cloture is successfully invoked; and the data below are presented accordingly. This proportion will be described as the *rate of cloture*.

Presumably, opponents of measures are likeliest to resort to filibuster on those items of business on which they see the best chance of success. Accordingly, when filibusters become more frequent, the additional items of business subject to them should in general be less promising ones. In such a case an increase in cloture attempts should be accompanied by a higher rate of cloture. By corresponding reasoning, when cloture is sought even in situations less promising for supporters, the increase in cloture attempts should yield lower rates of cloture.

### Antagonism and Accommodation

In evaluating the effectiveness of cloture, it is also necessary to take into account the difference between cloture motions offered and those disposed of by vote. As suggested above, an increase in the frequency of cloture attempts may imply that either opponents or supporters (or both) on a broader range of policy questions are setting aside more accommodative means of resolving them. In this context, a cloture motion that never reaches a vote may indicate any of several things. The question at issue may have been disposed of before the cloture vote occurs, or cloture may have been invoked on the basis of a previous motion. Equally, however, proponents of a measure may give up the attempt to terminate a filibuster or, on the other hand, some accommodation may be reached that renders cloture unnecessary.

This last case in particular represents a return from antagonistic to accommodative strategies. More broadly, all these possibilities amount to ways in which the Senate is able to resolve policy disputes without imposing constraints on debate. In this sense, the proportion of cloture motions on which no vote ultimately takes place offers some indication of the Senate's ability in

the end to resolve by accommodation situations that initially appeared antagonistic.

Accordingly, data on cloture motions not voted on may carry implications about the balance between antagonism and accommodation on policy conflicts in the Senate over the course of time. In periods in which almost all cloture motions are voted on, it may be because they are being filed only in situations that truly offer little hope of accommodation. In periods in which many are not voted on, on the other hand, it may be that Senators are filing them more readily even at less intense levels of conflict, and perhaps even as part of a process of seeking an accommodation.

### **Objects of Cloture Motions**

The history of the cloture rule's use shows that most cloture motions before the 1960's sought to limit consideration of the pending item of business itself. Now that the rule permits cloture to be sought on "any measure, motion, or other matter pending before the Senate, or the unfinished business," it has become common also to seek cloture on

- a specific amendment only,
- a motion to proceed to consider a measure, or
- a conference report, a motion to dispose of amendments between the houses, or any of the other motions incident to resolving differences between Senate and House versions of a measure.

The effect of invoking cloture on each of these specific objects differs from that of doing so on the underlying item of business. The presentation of data below traces the development of these variations and considers some of their different implications.

## **PATTERNS IN THE USE OF CLOTURE**

### **Increasing Focus on Motions to Proceed and Amendments**

In the early period (1917-1958), the item of business itself was the object of almost all cloture motions, although a few were directed toward a conference report or a motion to dispose of House amendments. Although after 1949 the rule permitted cloture on a motion to proceed to consider or on an amendment, few cloture motions of any kind were filed thereafter until the majority required for cloture was restored to two-thirds of Senators present and voting in 1959.

The importance of the 1949 change accordingly first became evident in the transitional period (1959-1970), when the motion to proceed was an object of cloture on nearly half the items of business involved. In addition, amendments were an object of cloture on as many items of business as was the item of

business itself. By contrast, in each Congress from the 92d through the 98th (1971-1984), the underlying item of business itself was an object of cloture in a majority of cases.

In the 97th Congress, however, for the first time, cloture motions were filed on amendments in relation to almost half the items of business involved. In the 98th, for the first time since the transitional period, a similar position was taken by cloture motions on the motion to proceed. From the 99th Congress (1985-1986), the item of business itself has ceased to be even the most common single object of cloture motions.

Throughout, of course, the cloture motions offered on a given item of business have sometimes addressed several different objects. As might be expected, this situation has arisen more frequently as the filing of multiple cloture motions on the same item of business has become more common.

### Early Trends Toward Frequency and Effectiveness

Although the majority required for cloture remained at two-thirds of Senators present and voting, the rate of cloture rose from under a quarter before 1971 to a third in the 92d Congress (1971-1972) and to over half in the 93d (1973-1974). The change seems clearly accounted for by increasing leadership persistence in seeking cloture, for the proportion of cloture *motions* on which cloture was invoked remained no higher than one-fifth, but the average number of cloture motions per item of business involved rose substantially. As a result, during this period cloture motions were filed and voted on at roughly contemporary levels, and involved about as many items of business.

In most of the Congresses since the majority for cloture was reduced to three-fifths of the full Senate in 1975, the average number of cloture motions per item of business involved has been somewhat below the levels of 1971-1974. This decline might have occurred because supporters of cloture attempts became more willing to abandon them, but in general, the rate of cloture has also risen. In the 94th and 96th Congresses (1975-1976 and 1979-1980), for example, the Senate invoked cloture on three quarters of items of business involved, and rejected it only on one tenth, levels never before attained. It is accordingly more likely that the reduced vote requirement has enabled the Senate to invoke cloture more often on earlier motions.

The 95th Congress (1977-1978), however, may display the alternative pattern. In this Congress the rate of cloture dropped back almost to pre-1971 levels, not because the proportion rejected rose, but because no vote took place on half the petitions filed. In addition, the number of items of business on which cloture motions were filed reverted to an unusually low level. Both circumstances suggest that the Senate's initial experience with its eased cloture

requirement may temporarily have inclined it toward resolving its policy controversies through accommodation.

Since the 95th Congress, cloture motions filed, and items of business on which cloture votes occurred, have persistently tended to rise. Cloture votes, the most frequently cited datum, have also risen, but more unevenly. However, items of business on which cloture motions were filed, which seems the clearest measure of the number of intractable controversies, began no similar rise until after the 97th Congress (1981-1982). In the course of these continued increases, each of these measures of cloture activity came to surpass all its previous levels either in the 98th, 99th, or 100th Congress (1983-1988).

#### **Frequency, Success, and Periods of Conflict**

The 97th Congress (1981-1982) displayed a substantially new pattern, suggestive of intense conflict and low accommodation and presumably reflecting the change in party majority that took place in that Congress. Cloture was sought on only nine items of business, but cloture votes ultimately took place on each. The average number of cloture motions, and of cloture votes, per item of business involved reached levels not even approached at any other time. For the only time since the 92d Congress, cloture was rejected on over half the items of business on which it was sought, and for the only time since the 93d, over half the cloture motions filed were rejected.

In the 98th Congress (1983-1984), in sharp contrast, the proportion of cloture motions rejected reached an all-time low of under one-fifth, and over half of such motions received no vote. The rate of cloture reflected no such sharp changes, but since the 97th Congress has fluctuated within the range between 35% and 55%. From the 98th Congress onward items of business on which cloture was ultimately invoked have always equalled or exceeded those on which it is ultimately rejected, and the proportion of items of business involved in which no cloture vote is ultimately required has remained relatively high.

Also in the 98th Congress, the number of items of business on which cloture was filed nearly doubled from the 97th, almost matching the previous high in the 94th, and in each Congress since it has established a new record. This pattern, part of the rise since the 95th Congress in the overall frequency of cloture activity, suggests that either supporters of measures are resorting to cloture, or opponents of measures to filibusters, or both, with steadily increasing readiness, and on a steadily widening range of matters.

In relation to earlier periods, the success rate of cloture has increased, which by an argument proposed above suggests that it may be opposition to matters before the Senate that has become more antagonistic. In the period since the 97th Congress, by contrast, there has been little substantial change in the rate of cloture, so that the rise in cloture attempts during this period may imply only an increase in the overall extent of antagonistic conflict in the



Senate. Yet against this conclusion stands the observation that even though a wider range of items of business now involves cloture attempts, those attempts have been yielding a reasonably favorable success rate.

Some have suggested that the increased resort to cloture stems from a "trivialization" of the filibuster and cloture, in that the items of business on which it is being sought now encompass issues of lesser importance.<sup>2</sup> On the other hand, the additional items may be ones on which, in an earlier day, cloture might not have been attempted at all, because the controversy they provoked was considered too intense. In this sense, these additional items may involve issues more, rather than less, significant than those of earlier days.

In the 100th Congress (1917-1988), the proportion of cloture motions rejected exceed the levels of the 97th. The proportion of items of business involved on which cloture was ultimately rejected, and the average number of cloture votes per item of business involved, also rose substantially above the levels reached in the previous two Congresses, although they did not approach those of the 97th. It appears, in other words, that the conflictual tendencies that accompanied the shift in party control in the 97th Congress emerged again with the similar shift in the 100th.

#### **Period of Broader but Less Intense Cloture Attempts**

In the 101st and 102d Congresses (1989-1992), another new pattern of cloture use seems to be emerging, in some respects significantly different from the immediately preceding ones. The average number of cloture motions filed for each item of business involved suddenly dropped below two, after having previously been above that level throughout the recent period. The average number of cloture votes for each item of business also dropped back, to the levels previously typical of the recent period. The 102d Congress (1991-1992) also exhibited all-time highs in cloture motions filed and voted on, and in items of business on which cloture motions were filed and voted on. These increases reflected especially the practice of filing immediate cloture motions on motions to proceed, which in the 102d Congress seemed to become almost routine.

The emerging pattern seems to one in which the leadership seeks cloture yet more readily, and on a still expanding number of items of business, including immediate cloture on the motion to proceed. In complete contrast to the early period, filibusters are now seldom if ever permitted to develop before action is taken. This pattern suggests that the leadership may be increasingly emphasizing a broad search for items of business on which cloture can be achieved, rather than pursuing lengthy struggles for cloture on a narrow range of issues.

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<sup>2</sup> See, for example, Chafee, John H. *Filibuster Abuses*. Remarks in the Senate. *Congressional Record*, v. 129, March 1, 1983. p. S1803-S1804.

The decline of persistent attempts to obtain cloture on a single issue suggests that, as in the early period, the Senate may once again be becoming more willing to accept the results of a single test of Senate sentiment for or against cloture, rather than engaging in long series of cloture votes on the same item of business. As in the early period, however, this practice seems coupled with lower rates of success in achieving cloture. In both the 101st and 102d Congresses, reversing the position of those immediately preceding, cloture was once again ultimately rejected on more items of business than invoked.

## CONCLUSIONS

At least until the most recent Congresses, four aspects of cloture practice that remained fairly stable during the recent period were that

- cloture was usually attempted on about 16-24 items of business per Congress,
- between two and three cloture motions were filed per measure involved, and
- cloture was somewhat more often rejected than invoked, but
- cloture was almost always ultimately invoked on more items of business than rejected.

Before the majority required for cloture was reduced to three-fifths of the full Senate in 1975, cloture was ultimately rejected on more items of business than invoked and, no doubt relatedly, the number of cloture votes per measure was higher than typical today. In several respects, the 97th Congress (1981-1982) and to some extent the 100th (1987-1988) represented a return to the more antagonistic patterns seen in the 92d and 93d (1971-1974), before the vote requirement was reduced.

Since the 95th Congress (1977-1978), the overall frequency of cloture action generally has risen, and this rise accelerated beginning with the 100th Congress (1987-1988). After the 97th Congress, the rate of cloture returned to generally high levels. The same was true of items of business on which cloture motions received no vote, so that, although similar numbers of issues have tended to attract larger numbers of cloture attempts, such issues were nevertheless resolved more often by accommodation.

Together, these findings suggest that in the recent period, the leadership has become increasingly willing to use cloture to manage the floor agenda, and the Senate has come to accept it as a normal tool for this purpose. When used in this way, achieving cloture often takes more than one vote, but once cloture is invoked, Senators still tend to desist from a filibuster, while if cloture cannot be achieved after a few tests, supporters of the measure tend to abandon the effort to pass it.

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Under these conditions, the cloture procedure has generally continued to yield a moderately high level of success, especially when used persistently. Whether this level of effectiveness is appropriate to the Senate's contemporary needs and nature is a question that the chamber itself will clearly continue to reconsider as its practice develops.

**Table 1. Frequency of Cloture Action,  
66th through 102d Congress (1917-1992)**

Congress and (years)	Number of cloture motions		Items of business on which cloture motions were	
	Filed	Voted on	Filed	Voted on
66-85 (1917-1958) <sup>a</sup>	32	22	30	20
86-91 (1959-1970) <sup>b</sup>	29	27	18	18
92 (1971-1972)	24	20	9	8
93 (1973-1974)	45	31	17	14
94 (1975-1976) <sup>c</sup>	39	27	18	15
95 (1977-1978)	25	13	12	6
96 (1979-1980)	33	21	14	10
97 (1981-1982)	33	27	9	9
98 (1983-1984)	41	19	17	14
99 (1985-1986)	41	23	20	13
100 (1987-1988)	54	45	23	20
101 (1989-1990)	37	24	24	18
102 (1991-1992)	62	49	42	32

SOURCES: Internal CRS compilations from *Congressional Record*, *Daily Digest*, SCORPIO, and LEGIS, and *Senate Journal*.

NOTES:

- (a) Period during which cloture could not be moved on motions to proceed to consider. Includes periods during which cloture required (1) two thirds of Senators present and voting or (2) two thirds of the full Senate.
- (b) Beginning of period during which cloture required two thirds of Senators present and voting, except that rules changes still required two thirds of the full Senate, but cloture could be moved on motions to proceed to consider.
- (c) Beginning of period during which cloture requires three fifths of the full Senate, except that rules changes require two thirds of Senators present and voting.

**Table 2. Frequency of Action on Cloture  
per Item of Business on which Cloture was Sought,  
66th through 102d Congress (1917-1992)**

Congress and (years)	Cloture motions offered per item of business involved	Cloture votes per item of business involved
66-85 (1917-1958)	1.1	0.7
86-91 (1959-1970)	1.6	1.5
92 (1971-1972)	2.7	2.2
93 (1973-1974)	2.6	1.8
94 (1975-1976)	2.2	1.5
95 (1977-1978)	2.1	1.1
96 (1979-1980)	2.4	1.5
97 (1981-1982)	3.7	3.0
98 (1983-1984)	2.4	1.1
99 (1985-1986)	2.1	1.2
100 (1987-1988)	2.3	1.9
101 (1989-1990)	1.5	1.0
102 (1991-1992)	1.5	1.2

SOURCE: Table 1.



**Table 3. Disposition of Cloture Motions,  
66th through 102d Congress (1917-1992)**

Congress and (years)	Number of Cloture Motions				
	Rejected	Invoked	Withdrawn <sup>d</sup>	Fell <sup>e</sup>	Total
66-85 (1917-1958) <sup>a</sup>	18	4	4	6	32
86-91 (1959-1970) <sup>b</sup>	23	4	2	0	29
92 (1971-1972)	16	4	1	3	24
93 (1973-1974)	22	9	4	10	45
94 (1975-1976) <sup>c</sup>	10	17	5	7	39
95 (1977-1978)	10	3	4	8	25
96 (1979-1980)	11	10	5	7	33
97 (1981-1982)	18	9	4	2	33
98 (1983-1984)	8	11	15	7	41
99 (1985-1986)	13	10	10	8	41
100 (1987-1988)	32	13	3	6	54
101 (1989-1990)	13	11	8	5	37
102 (1991-1992)	26	23	10	3	62

SOURCES: Internal CRS compilations from *Congressional Record*, Daily Digest, SCORPIO, and LEGIS, and *Senate Journal*.

**NOTES:**

(a) Period during which cloture could not be moved on motions to proceed to consider. Includes periods during which cloture required (1) 2/3 of Senators present and voting or (2) 2/3 of the full Senate.

(b) Beginning of period during which cloture required two thirds of Senators present and voting, except that rules changes still required two thirds of the full Senate, but cloture could be moved on motions to proceed to consider.

(c) Beginning of period during which cloture requires three fifths of the full Senate, except that rules changes require two thirds of Senators present and voting.

(d) Includes vitiated.

(e) Motion was never voted on because it became moot, was superseded, etc.

**Table 4. Frequency of Dispositions of Cloture Motions,  
66th through 102d Congress (1917-1992)**

Congress and (years)	Percent of cloture motions that were <sup>g</sup>		
	Rejected	Invoked	Not voted on <sup>f</sup>
66-86 (1917-1958) <sup>a</sup>	56.3	12.5	31.3
87-91 (1959-1970) <sup>b</sup>	79.3	13.8	6.9
92 (1971-1972)	66.7	16.7	16.7
93 (1973-1974)	48.9	20.0	31.1
94 (1975-1976) <sup>c</sup>	25.6	43.6	30.8
95 (1977-1978)	40.0	12.0	48.0
96 (1979-1980)	33.3	30.3	36.4
97 (1981-1982)	54.5	27.3	18.2
98 (1983-1984)	19.5	26.8	53.7
99 (1985-1986)	31.7	24.4	43.9
100 (1987-1988)	59.3	24.1	16.7
101 (1989-1990)	35.1	29.7	35.1
102 (1991-1992)	41.9	37.1	21.0

SOURCE: Table 3.

NOTE: (a) Includes withdrawn, vitiated, and fell. "Fell" means that no vote was taken because the motion was superseded, became moot, etc.

**Table 5. Dispositions of Attempts to Invoke Cloture on Items of Business, 66th through 102d Congress (1917-1992)**

Congress and (years)	Items of business on which the final cloture vote was				Total items of business on which cloture motions were filed
	Rejected	Invoked	Withdrawn <sup>a,b</sup>	Fell <sup>a,c</sup>	
66-85 (1917-1958) <sup>d</sup>	16	4	4	6	30
86-91 (1959-1970) <sup>e</sup>	14	4	0	0	18
92 (1971-1972)	5	3	0	1	9
93 (1973-1974)	5	9	2	1	17
94 (1975-1976) <sup>f</sup>	2	13	3	0	18
95 (1977-1978)	3	3	2	4	12
96 (1979-1980)	1	9	2	0	12
97 (1981-1982)	5	4	0	0	9
98 (1983-1984)	4	9	3	1	17
99 (1985-1986)	6	9	3	2	20
100 (1987-1988)	9	11	2	1	23
101 (1989-1990)	9	9	4	2	24
102 (1991-1992)	14	18	8	2	42

SOURCES: Internal CRS compilations from *Congressional Record*, Daily Digest, SCORPIO, and LEGIS, and *Senate Journal*.

NOTES:

(a) The items of business counted in these columns are only those on which no cloture vote took place at any stage of proceedings.

(b) Includes vitiated.

(c) Motion was never voted on because it became moot, was superseded, etc.

(d) Period during which cloture could not be moved on motions to proceed to consider. Includes periods during which cloture required (1) 2/3 of Senators present and voting or (2) 2/3 of the full Senate.

(e) Beginning of period during which cloture required two thirds of Senators present and voting, except that rules changes still required two thirds of the full Senate, but cloture could be moved on motions to proceed to consider.

(f) Beginning of period during which cloture requires three fifths of the full Senate, except that rules changes require two thirds of Senators present and voting.

**Table 6. Frequency of Dispositions of Attempts to Invoke Cloture on Items of Business, 66th through 102d Congress (1917-1992)**

Congress and (years)	Percent of items of business on which final cloture vote was <sup>g</sup>		
	Rejected	Invoked	None <sup>a</sup>
66-86 (1917-1958) <sup>d</sup>	53.3	13.3	33.3
87-91 (1959-1970) <sup>e</sup>	77.8	22.2	0.0
92 (1971-1972)	55.6	33.3	11.1
93 (1973-1974)	29.4	52.9	17.6
94 (1975-1976) <sup>f</sup>	11.1	72.2	16.7
95 (1977-1978)	25.0	25.0	50.0
96 (1979-1980)	8.3	75.0	16.7
97 (1981-1982)	55.6	44.4	0.0
98 (1983-1984)	23.5	52.9	23.5
99 (1985-1986)	30.0	45.0	25.0
100 (1987-1988)	39.1	47.8	13.0
101 (1989-1990)	37.5	37.5	25.0
102 (1991-1992)	33.3	42.9	23.8

SOURCE: Table 5.

NOTE: (a) Measures counted in this column are only those on which no cloture vote took place.

**Table 7. Number of Items of Business on which Cloture Motions with Various Objects were Offered, 66th through 102d Congress (1917-1992)**

Congress and (years)	Motion to proceed	Measure	Amendment <sup>a</sup>	Resolving differences <sup>b</sup>	Total <sup>c</sup>
66-85 (1917-1958) <sup>d</sup>	4	24	0	2	30
86-91 (1959-1970) <sup>e</sup>	8	5	5	1	18
92 (1971-1972)	1	8	0	1	9
93 (1973-1974)	0	10	3	5	17
94 (1975-1976) <sup>f</sup>	5	14	2	2	18
95 (1977-1978)	2	7	4	1	12
96 (1979-1980)	1	8	3	2	12
97 (1981-1982)	3	6	4	1	9
98 (1983-1984)	7	9	5	1	17 <sup>h</sup>
99 (1985-1986)	7	5	6 <sup>k</sup>	3	20 <sup>g,i</sup>
100 (1987-1988)	4	10	13 <sup>k</sup>	0	23 <sup>g</sup>
101 (1989-1990)	10	9	11	0	24
102 (1991-1992)	27	6	7	6	42

SOURCES: Internal CRS compilations from: *Congressional Record*, Daily Digest, SCORPIO, LEGIS, and *Senate Journal*.

NOTES:

- (a) Includes perfecting amendments, substitutes, and motions to recommit with instructions.
- (b) Includes conference reports, motions to dispose of amendments between the chambers, motions to go to conference, etc.
- (c) Entries in a row do not add to total for the row because cloture motions of more than one kind may have been filed in relation to the same measure or business.
- (d) Period during which cloture could not be moved on motions to proceed to consider. Includes periods during which cloture required (1) 2/3 of Senators present and voting or (2) 2/3 of the full Senate.
- (e) Beginning of period during which cloture required two thirds of Senators present and voting, except that rules changes still required two thirds of the full Senate, but cloture could be moved on motions to proceed to consider.
- (f) Beginning of period during which cloture requires three fifths of the full Senate, except that rules changes require two thirds of Senators present and voting.
- (g) Includes motions to recommit with instructions.
- (h) Total also includes one budget act waiver motion.
- (i) Total also includes one veto override.



**Table 8. Frequency of Items of Business on which Cloture Motions with Various Objects were Offered, 66th through 102d Congress (1917-1992)**

Congress and (years)	Percent of business on which cloture was sought, on which cloture was sought in relation to: <sup>a</sup>			
	Motion to proceed	Item of business	Amendment <sup>b</sup>	Resolving differences <sup>c</sup>
66-86 (1917-1958)	13.3	80.0	0.0	6.7
87-91 (1959-1970)	44.4	27.8	27.8	5.6
92 (1971-1972)	11.1	88.9	0.0	11.1
93 (1973-1974)	0.0	58.8	17.6	29.4
94 (1975-1976)	27.8	77.8	11.1	11.1
95 (1977-1978)	16.7	58.3	33.3	8.3
96 (1979-1980)	8.3	66.7	25.0	16.7
97 (1981-1982)	33.3	66.7	44.4	11.1
98 (1983-1984)	41.2	52.9	29.4	5.9
99 (1985-1986)	35.0	25.0	30.0	15.0
100 (1987-1988)	17.4	43.5	56.5	0.0
101 (1989-1990)	41.7	37.5	45.8	0.0
102 (1991-1992)	64.3	14.3	16.7	14.3

SOURCE: Table 7.

**NOTES:**

(a) Row entries do not sum to 100% because cloture motions of more than one kind may have been filed in relation to the same measure or business.

(b) Includes perfecting amendments, substitutes, and motions to recommit with instructions.

(c) Includes conference reports, motions to dispose of amendments between the chambers, motions to go to conference, etc.

**Table 9. Number of Cloture Motions with Various Objects, 66th through 102d Congress (1917-1992)**

Congress and (years)	proceed	Motion to business	Item of Amendment <sup>a</sup>	Resolving differences <sup>b</sup>	Total <sup>c</sup>
66-85 (1917-1958) <sup>d</sup>	5	25	0	2	32
86-91 (1959-1970) <sup>e</sup>	11	9	7	2	29
92 (1971-1972)	4	19	0	1	24
93 (1973-1974)	0	25	4	16	45
94 (1975-1976) <sup>f</sup>	8	26	2	3	39
95 (1977-1978)	2	11	11	1	25
96 (1979-1980)	3	15	9	6	33
97 (1981-1982)	3	11	18	1	33
98 (1983-1984)	9	13	15	2	41 <sup>g</sup>
99 (1985-1986)	11	12	12 <sup>i</sup>	5	41 <sup>h,i</sup>
100 (1987-1988)	11	14	29 <sup>i</sup>	0	54 <sup>i</sup>
101 (1989-1990)	12	12	13	0	37
102 (1991-1992)	35	8	10	9	62

SOURCES: Internal CRS compilations from Congressional Record, Daily Digest, SCORPIO, and Senate Journal.

NOTES:

- (a) Includes perfecting amendments, substitutes, and motions to recommit with instructions.
- (b) Includes conference reports, motions to dispose of amendments between the chambers, motions to go to conference, etc.
- (c) Row entries do not equal totals because cloture motions of more than one kind may have been filed in relation to the same measure or business.
- (d) Period during which cloture could not be moved on motions to proceed to consider. Includes periods during which cloture required (1) 2/3 of Senators present and voting or (2) 2/3 of the full Senate.
- (e) Beginning of period during which cloture required two thirds of Senators present and voting, except that rules changes still required two thirds of the full Senate, but cloture could be moved on motions to proceed to consider.
- (f) Beginning of period during which cloture requires three fifths of the full Senate, except that rules changes require two thirds of Senators present and voting.
- (g) Total also includes two cloture motions filed on budget act waiver motions.
- (h) Total also includes one cloture motion filed on a veto override.
- (i) Figure includes cloture motions filed on motions to recommit with instructions.

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## Congress of the United States

JOINT COMMITTEE ON  
 THE ORGANIZATION OF CONGRESS  
 ROOM 175D FORD HOUSE OFFICE BUILDING

Washington, DC 20515-6775

TO: Joint Committee on the Organization of Congress

SUBJECT: The Senate Motion to Proceed to Consider

## SUMMARY

The Senate today usually takes up a measure by unanimous consent to the Majority Leader's request to do so. If objection is heard, the Leader may move that the Senate proceed to consider the measure, but this motion is normally debatable, and can be filibustered. Though such action implicitly contests leadership control of the floor agenda, it may usually serve less to block measures than to obtain acceptable terms for their consideration. Thus, any rules change ensuring expeditious votes on such motions might shift influence over the floor agenda from opponents to the leadership.

From 1981 through 1992, motions to proceed were usually offered on 12-24 legislative measures per Congress, but 34 in the 102d (1991-1992); the Senate agreed to the motion on about 80%. In most Congresses, on the average such measure, usually 2-3 days were consumed while motions to proceed were pending. No clear rise appears in length of delay, or in the frequency with which motions to proceed were contested by demanding roll call votes, by procedural devices, or by struggles over cloture. No motion to proceed was actually rejected by vote, and in no Congress were more than five measures ultimately blocked through action on motions to proceed. Instead, several motions to proceed were finally superseded by unanimous consent to consider.

Roll call votes on motions to proceed were frequent only in the 100th Congress (1987-1988), when leadership tried often to use procedures permitting a nondebatable motion to proceed. In the 102d Congress the leadership sought cloture on a motion to proceed on 28 measures, often immediately; of these, cloture was rejected on only six. Senate Rules prohibited cloture on such a motion until 1959, but up to 40% of cloture motions filed in some Congresses since have been of this kind.

After the vote required for cloture was reduced to 3/5 of the full Senate in 1975, advocates of further change seem to have shifted attention from the cloture rule to limiting consideration of motions to proceed. Recent proposals

would limit debate on a motion to proceed (e.g., to two hours), or permit bringing up measures under restrictive terms if notice is given and a special majority vote obtained. Other approaches might be: establish a nondebatable motion to limit debate on a motion to proceed; make cloture on such a motion easier to obtain or more restrictive; or establish a practice of moving to suspend the rules and consider a measure under terms like those of a unanimous consent agreement.

#### THE ROLE OF CONTESTING THE MOTION TO PROCEED

Examination of the circumstances by which motions to proceed are considered and disposed of strongly suggests that the Senate's proceedings on these motions seldom prevent the leadership from securing consideration of the measures it proposes to call up. In addition, consideration of the typical motion to proceed does not seem to involve comprehensive and irreconcilable resistance to the leadership's agenda management, nor even the attempt to mount such resistance. Supporting this view are such findings for the period under study as the following:

- measures remain uncommon on which multiple motions to proceed are made;
- no identifiable increase appears in the number of motions to proceed contested by procedural actions;
- motions to proceed are never defeated outright;
- normally, few motions to proceed are even decided by roll call vote;
- fewer than half a dozen measures in any Congress are blocked by action on a motion to proceed;
- in some instances it is even possible for the Senate to reach a unanimous consent agreement governing consideration of a motion to proceed.

In addition, even if motions to proceed are judged to be made on a rising overall number of measures, it is difficult to discern more than roughly proportionate rises in

- extensive cloture action on motions to proceed;
- overall extensive resistance to motions to proceed, which remains no greater than half;
- adverse dispositions of motions to proceed.

In light of these circumstances, however, it is notable that

- motions to proceed are extensively contested markedly more often than they receive adverse disposition; and
- their consideration typically involves delays of two or three days, but not infrequently as much as a working week.

At the same time, the leadership seems to have been searching for means to enhance its ability to ensure a vote that at least in practice disposes of the motion to proceed. At various times these explorations have involved increased reliance on--

- non-debatable motions to proceed;
- immediate cloture attempts on motions to proceed, while encouraging Senate acceptance of the cloture vote as expressing the Senate's will on the motion itself; and
- time agreements governing some aspects of the consideration of motions to proceed.

This combination of findings raises two parallel questions. If active opposition to motions to proceed seldom achieves more than a moderate delay, what makes such action worthwhile for opponents? If the leadership is usually able to secure consideration of its intended agenda with little more delay than a cloture motion would involve, why does the sentiment seem so persistent in the Senate today that the present motion to proceed offers inadequate resources for effective leadership management of that agenda?

One reason may lie in the handful of measures whose consideration is actually blocked by opposition to the motion to proceed, which no doubt include some of the most crucial and controversial items on the Senate's policy agenda. Another may lie in the value of delay itself, both for purposes of position taking and with the hope of substantive effects at periods when time is short. Yet together with the evident occurrence of delay, the frequency with which motions to proceed are superseded by a consent agreement to consider, inescapably suggests a further possibility.

When the Senate follows its common practice of doing business by unanimous consent, it may plausibly be seen as functioning in a mode of accommodation. Conversely, the presumption has already been advanced that the offering of a motion to proceed means that the body is operating in a mode of contestation. For the Senate to take up a measure by unanimous consent when a motion to proceed is pending then represents a return from contestation to accommodation. To some extent, the same may be said when even the Senate only disposes of the motion to proceed by voice vote rather than roll call.

Although no available quantitative data can contribute explicitly to establishing the case, it is hardly speculative to suggest that such returns usually represent the outcome of a negotiated process of mutual accommodation. Such a view suggests that in many of the situations under consideration, reaching the agreement to proceed may have entailed supporters of the measure in question acceding to terms for its consideration, or even to substantive concessions on its content, in order to mitigate opposition to its consideration. At least in some cases, in addition, the process of reaching such an accommodation may consume significant amounts not only of the Senate's time, but of political resources of the leadership.



In such cases the motion to proceed may be considered as operating to the advantage of its opponents, even though the supporters prevail on the motion itself. On this view, the effectiveness of motions to proceed cannot adequately be identified simply by the proportion that are adopted, or the effectiveness of opposition to such motions by the proportion rejected. Instead, the ability of all Senators to affect the outcomes of such situations becomes an element of the effectiveness with which they are able to influence the Senate's agenda and even its policy output.

These considerations have potentially significant implications for proposals to alter the operation of the motion to proceed. Any procedure that does not ensure a vote within a definite time will permit Senators who wish changes in a measure, or who oppose the measure or its consideration, to use the possibility of the motion's extended consideration to negotiate for changes satisfactory to them. Any procedure that does ensure such a vote will eliminate the necessity for the leadership, or any Senators who can rely on the requisite majority of the Senate, to negotiate any such changes at all.

Accordingly, for example, if the motion to proceed could be adopted by an ordinary majority after a debate of fixed length, so that the leadership never felt itself under the necessity of negotiating for an agreement to consider, the proportion of measures considered and blocked might not change, but the forms in which, and terms under which, they were considered might differ substantially from those that would occur under today's procedures.

In addition, these considerations affect not only those cases in which motions to proceed are actually made, but every leadership decision on whether to attempt floor consideration on any measure. Opponents' ability to contest a motion to proceed may often affect the terms under which the leadership is able to bring the measure to the floor, even in cases in which the measure is ultimately taken up by unanimous consent with no motion to proceed ever actually having been offered. Even for measures considered under unanimous consent time agreements, the terms of those agreements may be affected by the prospect of the opposition that a motion to proceed would have met if offered.

For just such reasons, if the leadership could routinely secure floor consideration of any measure it wished, its authority to do so could hardly avoid radically diminishing the potential force of the informal "holds" on consideration that Senators are now commonly able to exercise.<sup>1</sup> Conversely, it seems unlikely that any attempt to limit the practice of holds can be highly effective if it leaves such resources intact.

It is in this sense that the rules governing the motion to proceed may constitute a significant element in the balance between centralized and collegial

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<sup>1</sup> On "holds" see McIntosh, Toby J. Senate 'Holds' System Developing as Sophisticated Tactic for Leverage, Delay. in Bureau of National Affairs, *Analysis and Reports*, Washington, Aug. 26, 1991. p. C-1 to C-5.

control in the chamber's proceedings today. The current procedure permits opponents of measures only occasionally to block consideration, but potentially often to delay consideration until they obtain concessions sufficient to render them willing to proceed. This state of affairs undoubtedly contributes a substantial component to the Senate's traditionally collegial and accommodative modes of proceeding. The implicit question behind the Senate's current discussion of changes in the motion to proceed is to what extent it wishes to maintain this character or to move toward more majoritarian, and more managerially controlled, forms of deliberation.

## **PROPOSALS FOR CHANGE**

### **Means of Limiting Debate**

Most recent proposals for change in the Senate's procedure for taking up measures have focused on placing a fixed time limit, typically between nothing and two hours, on debate of a motion to proceed. Some of these proposals would place the time provided under the control of the Majority and Minority Floor Leaders. Adoption of any such proposal would presumably have the effect of permitting the Majority Leader to bring any measure to the floor without having to negotiate terms for doing so.

The experience of the 100th Congress (1987-1988) with roll call votes on nondebatable motions to proceed suggests, however, that any constraint on debate of motions to proceed might lead Senators attempting to contest such motions to resort more intensely to any remaining means of doing so, beginning with demands for roll call votes and motions to table. Given that few motions to proceed today are apparently much debated while pending, it is unclear that such changes would result in a net savings of the Senate's floor time. Nevertheless, they might at least reduce calendar time elapsed during consideration of motions to proceed.

On the other hand, the proposals that have occasionally been offered to make motions to proceed debatable in some of the circumstances in which they are now non-debatable would presumably reduce leadership control of the floor agenda. To the extent that recent data are viewed as indicating that such control is now already substantial in most instances, such proposals might be worthy of consideration. It appears, however, that most discussions that consider problems to exist in this area identify them as involving too little central coordination rather than too much. To the extent that the leadership exercises scheduling control as an agent of the majority party, it seems unlikely that a Senate majority would see change in this direction as consistent with its interests.

An alternative that would represent less departure from the historic Senate practice of generally unlimited debate would be to provide only for a motion to limit debate on a pending motion to proceed to a specified time. Such a motion

would permit the Senate to ensure a vote on any specific motion to proceed without committing itself in advance to a fixed limit thereon, or to a limit on every motion to proceed.

To inhibit the use of such a motion to achieve additional delay, such a motion to limit debate could itself be made nondebatable, and in order only once on any single motion to proceed. The leadership's flexibility would not be much constrained by such restrictions, for if the Majority Leader wished to make a second attempt to limit debate, he could withdraw the motion to proceed, then renew it and move to limit debate on the new motion.

### **Special Cloture Provisions**

Another approach to placing constraints on consideration of motions to proceed would be to establish special, presumably easier, requirements for invoking cloture on such motions. For example, a motion for cloture on a motion to proceed could be made subject to an immediate vote rather than a two-day layover; an ordinary majority or other reduced majority could be permitted to invoke cloture on a motion to proceed, in place of the three fifths of the full Senate required for cloture on other matters; or the thirty hours to which consideration of a measure under cloture is now limited could be reduced, for motions to proceed under cloture -- to one or two hours, for example.

A question for proposals of any of these kinds would be whether action would require an ordinary or a special majority. One proposal, for example, would permit a non-debatable motion to proceed, but require a three fifths vote for its adoption. Such a device would expand leadership options by allowing them to choose in each instance between securing a three fifths majority and permitting debate. Any such proposal, though, could still have the effect of giving the leadership full control over terms of consideration whenever it could secure the requisite majority, and requiring it to accommodate opponents fully whenever it could not.

### **Proposals Also Affecting Terms of Consideration**

Also related to the question of the terms under which measures are called up may be that of the terms under which they are considered once called up. For suggestions have sometimes been made in the Senate to establish new procedures under which measures could be called up under specified limits on consideration. A recent example was the proposal for a "time limitation calendar," which would allow a majority greater than that required for cloture to impose restrictions on consideration more strict than those of cloture. Another such proposal would have permitted a motion, requiring notice in advance and a special majority for adoption, to proceed to consider a measure with non-germane amendments prohibited.

Such approaches, again, might be pursued through changes in the cloture rule, for example, by providing that if the Senate adopted a motion to proceed on which it had invoked cloture, then consideration of the measure itself would also proceed under the terms of the cloture rule. It might be less workable, on the other hand, to provide that cloture invoked on the motion to proceed would itself extend to consideration of the measure, for then supporters of the measure could attempt to use up the thirty hours allowed for consideration under cloture in debate on the motion to proceed, so that by the time the measure itself was reached opponents could offer no amendments.

Proposals to link new means of proceeding to consideration with additional forms of consideration would again enhance leadership flexibility, by allowing them to make an appropriate choice, for each measure, from among a range of terms for regulating consideration. Today's rules contemplate only two such forms of consideration: those of the Senate's general rules and those of cloture. Yet no multiplication of forms will guarantee that terms specifically appropriate for the consideration of each measure are available. Today, the Senate can obtain such specifically adapted terms of consideration only through a time agreement adopted by unanimous consent.

Finally, it might be possible to achieve similar results by using the Senate's existing motion to suspend the rules. This motion is little used in the Senate today, and at least in recent decades, there seems no close precedent for its use in this fashion. Nevertheless, there seems no specific bar to a motion that the Senate suspend the rules and proceed to the consideration of a specified measure under specified terms. As do unanimous consent agreements do today, and as do "special rules" for the consideration of measures in the House, such a motion might stipulate a limitation and division of the time for debate, specify a time certain for taking up the measure or for a final vote, and require germaneness or relevance in amendments or restrict them to a specified list.

Under current Senate Rules, a motion to suspend the rules requires one calendar day's notice, is fully debatable, and can be adopted only by two thirds of Senators present and voting. Cloture would of course be applicable in order to limit consideration of the motion. Use of the motion to suspend the rules in this way would be similar to establishing a form of motion to proceed requiring notice and a special majority vote, but instead of establishing fixed terms for consideration of the measure, would permit forms of consideration flexibly adaptable to circumstances. In this respect they would resemble the resolutions that evolved into today's "special rules" in the House, which were first made in the form of motions to suspend the rules and consider a specified measure, requiring a two-thirds vote.<sup>2</sup>

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<sup>2</sup> Hinds, Asher C. *Hinds' Precedents of the House of Representatives of the United States*. Washington, G.P.O., 1907. v. IV, sec. 3152, 3153, 3161, 3162; v. V, sec. 6774.

Under present Rules, such a motion to suspend the rules and consider a measure would be like today's motion to proceed in being fully debatable. This debatable character, along with the notice requirement and the special majority required for adoption, would mean that the leadership could obtain increased flexibility in determining the terms of a measure's consideration only when it could meet these special requirements; otherwise, it could still seek consideration under existing procedures.

As with the ordinary motion to proceed, however, the Senate could change its Rules also to provide for limited debate (or for a motion to limit debate) specifically on motions to suspend the rules and consider a measure. Such changes could also alter notice requirements and majorities required for adoption for motions to suspend the rules for these purposes. In this way the Senate could adjust the leadership's capacity to make use of such motions, and thereby opponents' capacity to influence outcomes, to a level it considered appropriate.



**Table 1. Motions to Proceed not Debatable  
or Not Offered by the Majority Leader or Majority Whip, 1979-1992<sup>a</sup>**

Congress and (years)	Total motions	Not debatable	Not offered by Majority Leader or Majority Whip		<i>Of those offered by Majority Leader or Majority Whip, percent disposed of adversely</i>
			Total	Disposed of adversely	
96 (1979-1980) <sup>b</sup>	7	1	3	2	0
97 (1981-1982)	12	1	1	1	27
98 (1983-1984)	22	3	2	2	11
99 (1985-1986)	14	1	4	2	10
100 (1987-1988)	24	11	0	0	17
101 (1989-1990)	16	0	1	1	21
102 (1991-1992)	40	3	2	1	15

(a) Table is based on number of *motions* to proceed to consider legislative measures.

(b) Incomplete data, reflecting only motions to proceed in relation to which roll call votes occurred or that were identifiable from other information.

**Table 2. Proportion of Items of Business Involving Cloture Action on which Cloture was Sought on a Motion to Proceed, 1917-1990<sup>a</sup>**

Congresses and (years)	Total items of business in relation to which cloture was moved	Items of business on which cloture was moved on motion to proceed	
		Number	Percent of total
66-85 (1917-1958)	30	4 <sup>b</sup>	13
86-91 (1959-1970)	18	8	44
92-96 (1971-1980) <sup>c</sup>	68	9	13
97-101 (1981-1990)	93	31	33

SOURCE: Beth, *Use of the Cloture Rule*, Tables 7 and 8, p. //--//.

NOTES:

(a) Table is based on number of items of business on which cloture was moved, not number of cloture motions. Data are displayed roughly by decades or longer periods because evident breaks between one pattern and another occur at those points. In particular, the table omits the 102d Congress (1991-1992) because of its unusual pattern, discussed in the text.

(b) Cloture motions attempted, although not in order in such circumstances under Senate rules during that period.

(c) In the middle of this decade (1975), the majority required for cloture on most matters was altered from two thirds of Senators present and voting to three fifths of the full Senate.

**Table 3. Measures on which Cloture was Sought  
on a Motion to Proceed, 1979-1992\***

Congress and (years)	Measures on which motion to proceed was offered <sup>b</sup>	Measures for which cloture was moved on a motion to proceed	Measures for which cloture on a motion to proceed was ultimately--			Measures for which more than one cloture motion was filed on a motion to proceed	Average number of cloture motions filed per measure on which a motion to proceed was made
			invoked	rejected	not voted on		
96 (1979-1980) <sup>c</sup>	6	1	0	1	0	1	0.50
97 (1981-1982)	12	3	1	2	0	0	0.25
98 (1983-1984)	21	7	0	5	2	3	0.48
99 (1985-1986)	14	8	3	4	1	2	0.86
100 (1987-1988)	23	4	4	0	0	3	0.43
101 (1989-1990)	15	10	2	4	4	2	0.80
102 (1991-1992)	34	28	6	14	8	5	1.00

**NOTES:**

- (a) Includes only legislative measures on which at least one motion to proceed was offered.
- (b) Figures differ from those in the first data column of Table 1 because more than one motion to proceed may be offered on the same item of business, as examined more thoroughly below.
- (c) Incomplete data, reflecting only motions to proceed in relation to which roll call votes occurred or that were identifiable from other information.

Table 4. Selected Forms of Opposition to Motions to Proceed on Measures, 1979-1992\*

Congress and (years)	Measures on which motions to proceed were		Measures on which consideration of motions to proceed involved				Measures on which motions to proceed were opposed	
	offered	offered more than once	Procedural actions <sup>b</sup>	Roll call votes <sup>c</sup>	More than one cloture motion filed	Cloture rejected at least once	Number <sup>d</sup>	Percent of total
96 (1979-1980) <sup>e</sup>	6	1	4	5	1	1	6	100
97 (1981-1982)	12	0	5	5	0	1	6	50
98 (1983-1984)	21	1	5	5	3	0	12	43
99 (1985-1986)	14	0	3	1	2	4	7	50
100 (1987-1988)	23	1	3	16	3	4	19	83
101 (1989-1990)	15	1	1	0	2	2	4	27
102 (1991-1992)	34	5	6	1	5	8	15	44

## NOTES

(a) Table is based on the number of legislative measures on which at least one motion to proceed was offered.

(b) Measures in relation to which, pending consideration of a motion to proceed, such actions were taken as moving to table the motion or to postpone consideration, demanding a quorum call, moving a recess or adjournment, raising a point of order against the motion, demands that a conference report or other papers be read in full, or the intervention of proceedings on approving the *Journal*.

(c) Measures in relation to which roll call votes occurred on a motion to proceed or during its consideration, except roll call votes on cloture.

(d) Number of measures on which motions to proceed were opposed by any of the means identified in the preceding five columns. Entries do not equal the sum of those columns because opposition may have been expressed in more than one form.

(e) Incomplete data, reflecting only motions to proceed in relation to which roll call votes occurred or that were identifiable from other information.

**Table 5. Time Consumed by Consideration of Motions to Proceed, Per Measure on which Motions to Proceed were Offered, 1979-1992<sup>a</sup>**

Congress and (years)	Average elapsed days <sup>b</sup>	Average days on which considered <sup>c</sup>
96 (1979-1980) <sup>f</sup>	5.8	2.7
97 (1981-1982)	2.1	2.0
98 (1983-1984)	3.5 <sup>d</sup>	2.1
99 (1985-1986)	2.6	2.6
100 (1987-1988)	1.5	1.9
101 (1989-1990)	5.1	2.5
102 (1991-1992)	11.1 <sup>e</sup>	2.6

(a) Table is based on the number of legislative *measures* on which at least one motion to proceed was offered.

(b) ELAPSED DAYS: Number of *calendar days* from offering of motion to proceed to disposition of motion to proceed. Where more than one motion to proceed for the same measure, time on all are summed. If a motion is disposed of on the same day offered, elapsed days equal zero.

(c) DAYS CONSIDERED: Number of days of *Senate session* during which action on or with respect to a motion to proceed took place on the floor. If a motion is disposed of on the same day offered, days considered equal one.

(d) If one measure is excluded for which the consideration of a motion to proceed spanned an intrasession recess, the average on the remaining measures is 1.4 days.

(e) If two measures are excluded for which the consideration of a motion to proceed spanned an intrasession or intersession recess, the average on the remaining measures is 2.8 days.

(f) Incomplete data, reflecting only motions to proceed in relation to which roll call votes occurred or that were identifiable from other information.



**Table 6. Consent Agreements on Motions to Proceed, 1979-1992<sup>a</sup>**

Congress and (years)	Total measures on which motions to proceed were offered	Measures with respect to which consent agreements on a motion to proceed were reached	
		Number	Percent
96 (1979-1980) <sup>b</sup>	6	1	17
97 (1981-1982)	12	2	17
98 (1983-1984)	21	3	14
99 (1985-1986)	14	2	14
100 (1987-1988)	23	6	26
101 (1989-1990)	15	1	7
102 (1991-1992)	34	27	79

(a) Table is based on the number of legislative *measures* on which at least one motion to proceed was offered. See footnote 15.

(b) Incomplete data, reflecting only motions to proceed in relation to which roll call votes occurred or that were identifiable from other information.

Table 7. Disposition of Motions to Proceed, 1979-1992<sup>a</sup>

Congress and (years)	Total motions	Total favorable	Adopted, roll call	Adopted, voice	Unanimous consent	Total adverse	Withdrawn	Fell	Tabled	Out of order
96 (1979-1980) <sup>b</sup>	7	4	1	2	1	3	1	-	2	-
97 (1981-1982)	12	7	3	4	0	5	4	-	-	1
98 (1983-1984)	22	17	4	6	7	5	3	-	1	1
99 (1985-1986)	14	11	1	7	3	3	2	1	-	-
100 (1987-1988)	24	19	16	2	1	5	-	5	-	-
101 (1989-1990)	16	11	-	4	7	5 <sup>c</sup>	2	2	-	-
102 (1991-1992)	40	29	-	9	20	11	5	6	-	-

## NOTES:

(a) Table is based on number of *motions* to proceed to consider legislative measures, *not* the number of measures on which motions to proceed were offered. Dashes represent zeroes.

(b) Incomplete data, reflecting only motions to proceed in relation to which roll call votes occurred or that were identifiable from other information.

(c) Includes one motion agreed to by voice vote on which the vote was then vitiated by unanimous consent.

**Table 8. Effectiveness of Motions to Proceed to Consider Measures, 1979-1992<sup>a</sup>**

Congress and (years)	Total measures on which motions to proceed were offered	Percent of total on which opposition to motion to proceed was indicated <sup>b</sup>	Final disposition of motion to proceed <sup>c</sup>			Measures blocked
			Favorable	Adverse	Percent favorable of total	
96 (1979-1980) <sup>d</sup>	6	100	4	2	67	1
97 (1981-1982)	12	50	7	5	58	3
98 (1983-1984)	21	43	17	4	81	3
99 (1985-1986)	14	50	11	3	79	2 <sup>e</sup>
100 (1987-1988)	23	83	19	4	83	3
101 (1989-1990)	15	27	11	4	73	4
102 (1991-1992)	34	44	29	5	85	5

(a) Includes only legislative measures on which at least one motion to proceed was offered.

(b) From Table 4.

(c) Not equivalent to the corresponding columns in Table 6. Table 6 is based on the number of motions to proceed to consider; this table is based on the number of measures on which motions to proceed were offered.

(d) Incomplete data, reflecting only motions to proceed in relation to which roll call votes occurred or that were identifiable from other information.

(e) One measure that the Senate voted to consider, but then returned to the calendar by unanimous consent, is not counted as blocked by means of action on the motion to proceed.



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TO : Joint Committee on Congressional Organization  
Attention: Walter Oleszek

FROM : Faye Bullock *FB*  
Susan Greenwood *SG*  
Virginia McMurtry *VM*  
Clay Wellborn *CW*  
Government Division

SUBJECT : House and Senate Votes by Day of Week

In response to your request and as previously discussed, we are forwarding the enclosed tables and figures, which provide data on the number of recorded votes in the House and the Senate on the respective days of the week for the 102d and the 98th (1983-84) Congresses.

Please note that the partial material on the Senate, sent previously, incorrectly referred to the 1983-84 period as the "97th Congress." A corrected version of the previous memo is enclosed; please discard the original one dated July 20. Also, please refer to the attached figures for the Senate, which are correctly labelled as the "98th Congress" and discard the previous set.

Both of the Congresses selected for analysis included presidential election years (1984 and 1992). The dates and number of votes in the House and in the Senate were compiled from the *Congressional Quarterly Almanacs*.

We hope that these tables and figures prove useful for your purposes. For questions concerning the compilation of the data on the votes, you may contact Faye Bullock (7-5802) for the 98th Congress and Susan Greenwood (7-7026) for the 102d. For questions about the tables and figures, please contact Clay Wellborn (7-7545) or Ginger McMurtry (7-8678).



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TO : Joint Committee on Congressional Organization  
Attention: Walter Oleszek

FROM : Faye Bullock  
Susan Greenwood  
Virginia McMurtry  
Clay Wellborn  
Government Division

SUBJECT : Senate Votes by Day-of-the-Week

In response to your request and as previously discussed, we are forwarding the attached preliminary tables and figures, which provide data on the number of recorded votes in the Senate on the respective days of the week for the 102d and the 98th (1983-84) Congresses.

As further detailed in the accompanying memo from Ilona Nickels, the Senate officially began the "three-weeks here, one-week away" schedule in 1988. We selected the 98th Congress rather than the 99th for "before" data, so that we would have both second sessions falling in presidential election years (1984 and 1992). The dates and numbers of votes were compiled from the *Congressional Quarterly Almanacs*. We identified 639 votes in the 98th Congress and 530 in the 102d Congress.

Perhaps the most striking feature of the figure "Percent Senate Votes by Day of Week: 98th and 102d Congresses" is the similarity of voting patterns in the two Congresses (See pp. Ia, Ib, and Ic). In both periods about a third of all recorded votes occurred on Thursday, followed in order by Wednesday and Tuesday. However, Friday ranked fourth in the 102d (11.3%), while Monday ranked fourth in the 98th (8.6%). Less than 2% of the votes in both Congresses occurred on Saturday, and there were no Sunday votes.

Additional insight is gained by comparing the two figures titled "Percent Senate Votes by Day of the Week: 98th Congress, by Session" (p. IIc), and "Percent Senate Votes by Day of the Week: 102d Congress, by Session" (p. IIIc). Two elements of these figures seem especially noteworthy. First, there is more variation among the percents of Senate votes on the respective days between the sessions of the 98th and 102d Congresses than between the two Congresses.



Moreover, the differences in pattern between the first and second sessions in the two Congresses are not consistent; in other words, there is no "election year effect" apparent. For example, in the 1st Session of the 98th Congress, the most votes occurred on Thursday (37.4%), while in the 2nd Session, Wednesday had the most votes (38%). In the 102d Congress, during the 1st Session almost a third of the votes occurred on Wednesday (32.5%), followed by Thursday (27.2%). But in the 2nd Session of the 102d Congress, the top two days were Thursday (28.6%), followed closely by Friday (25.4%), with Wednesday ranked fourth (19%).

For another perspective, one can examine the days of the week with respect to the number of days in which Congress was in session but no votes occurred. The figures titled "Number Days in Session with no Vote: 98th Congress, by session" (pp. IV.a-c), and "No. Days in Session with No Votes: 102d Congress, by session" (pp. Va-c), portray this dimension. Here there were significant differences between the two Congresses: in the 98th, in both sessions the most no vote days fell on Monday (37.9% and 30.6%), while in both sessions of the 102d, there were more days in session with no votes on Friday (33.9% and 41%).

We hope that this brief commentary, along with the preliminary tables and figures, proves useful for your purposes. If more formal tables or figures are needed, or if we can be of further assistance, please let us know. For questions concerning the compilation of the data on the votes, you may contact Faye Bullock (7-5802) for the 98th Congress and Susan Greenwood (7-7026) for the 102d. For questions about the tables and figures and possible alternative presentations, you may contact Clay Wellborn (7-7545). For questions concerning general methodology, or observations suggested in this memorandum, please contact Ginger McMurtry (7-8678).

FB/rla

***Distribution of Votes in the House, by Day of Week******98th & 102d Congresses, by Session***

Cong	Sess	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Total
<b>Frequency Distribution</b>									
98	1st sess.	0	36	138	148	138	37	1	498
98	2d sess.	0	10	91	127	140	29	0	397
98	Total	0	46	229	275	278	66	1	895
102	1st sess.	0	28	103	174	99	16	6	426
102	2d sess.	6	17	91	175	141	35	6	471
102	Total	6	45	194	349	240	51	12	897

***Percentage Distribution***

98	1st sess.	0.0%	7.2%	27.7%	29.7%	27.7%	7.4%	0.2%	100.0%
98	2d sess.	0.0%	2.5%	22.9%	32.0%	35.3%	7.3%	0.0%	100.0%
98	Total	0.0%	5.1%	25.6%	30.7%	31.1%	7.4%	0.1%	100.0%
102	1st sess.	0.0%	6.6%	24.2%	40.8%	23.2%	3.8%	1.4%	100.0%
102	2d sess.	1.3%	3.6%	19.3%	37.2%	29.9%	7.4%	1.3%	100.0%
102	Total	0.7%	5.0%	21.6%	38.9%	26.8%	5.7%	1.3%	100.0%

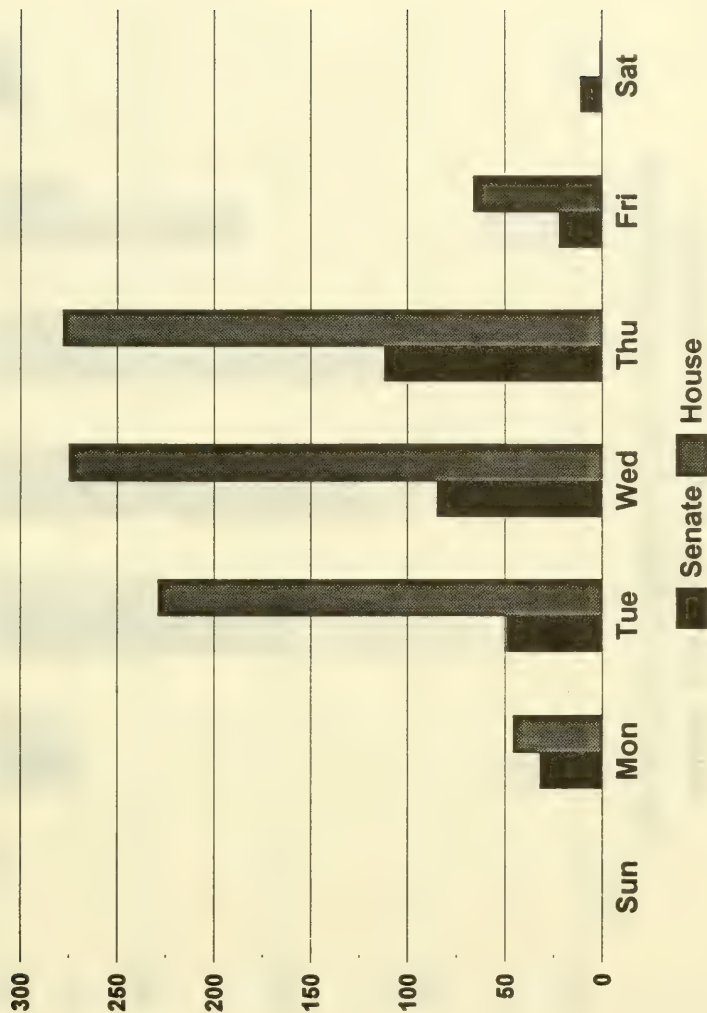
***Distribution of Votes in the Senate, by Day of Week******98th & 102d Congresses, by Session***

Cong	Sess	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Total
<b>Frequency Distribution</b>									
98	1st sess.	0	21	33	36	68	16	8	182
98	2d sess.	0	11	16	49	44	6	3	129
98	Total	0	32	49	85	112	22	11	311
102	1st sess.	0	12	21	37	31	10	3	114
102	2d sess.	0	3	28	24	36	32	3	126
102	Total	0	15	49	61	67	42	6	240

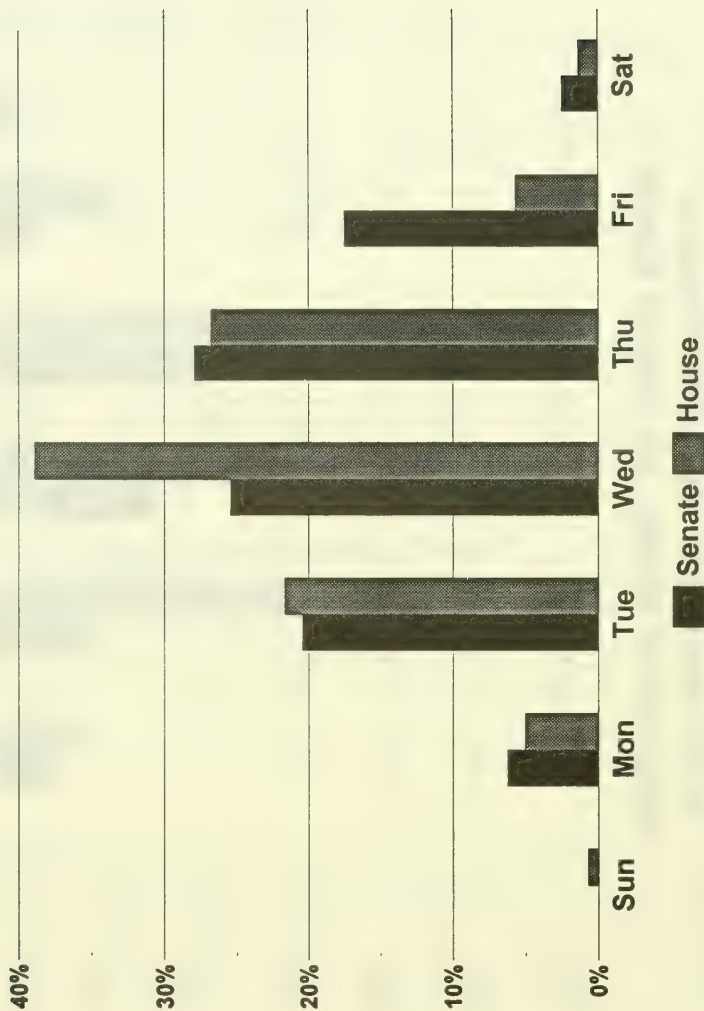
***Percentage Distribution***

98	1st sess.	0.0%	11.5%	18.1%	19.8%	37.4%	8.8%	4.4%	100.0%
98	2d sess.	0.0%	8.5%	12.4%	38.0%	34.1%	4.7%	2.3%	100.0%
98	Total	0.0%	10.3%	15.8%	27.3%	36.0%	7.1%	3.5%	100.0%
102	1st sess.	0.0%	10.5%	18.4%	32.5%	27.2%	8.8%	2.6%	100.0%
102	2d sess.	0.0%	2.4%	22.2%	19.0%	28.6%	25.4%	2.4%	100.0%
102	Total	0.0%	6.3%	20.4%	25.4%	27.9%	17.5%	2.5%	100.0%

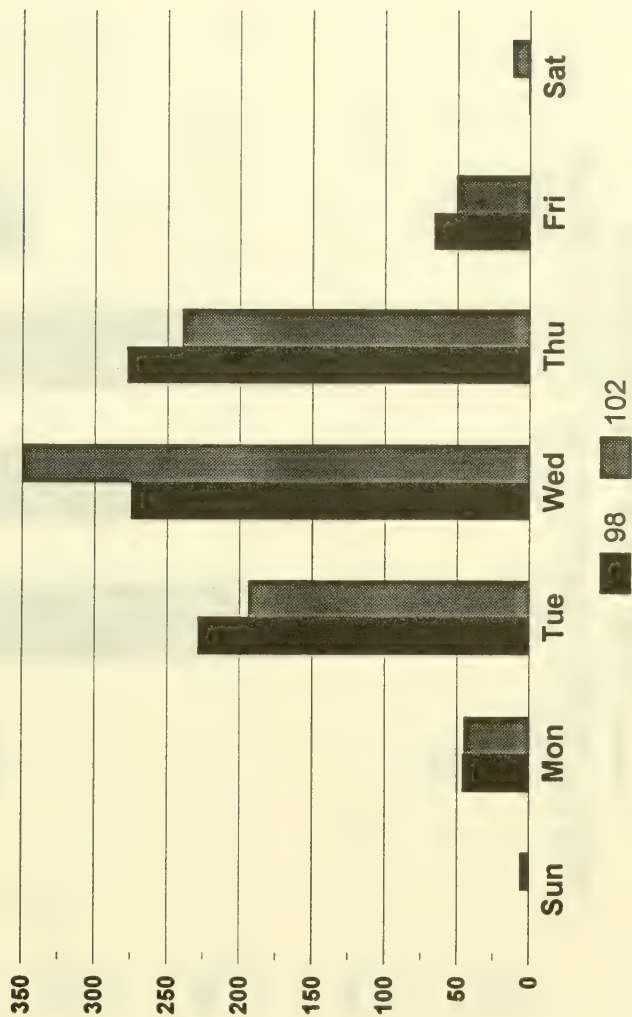
Senate and House Votes, 98th Congress  
*Number of Votes, by Day of Week*



# Senate and House Votes, 102d Congress Percent Distribution, by Day of Week



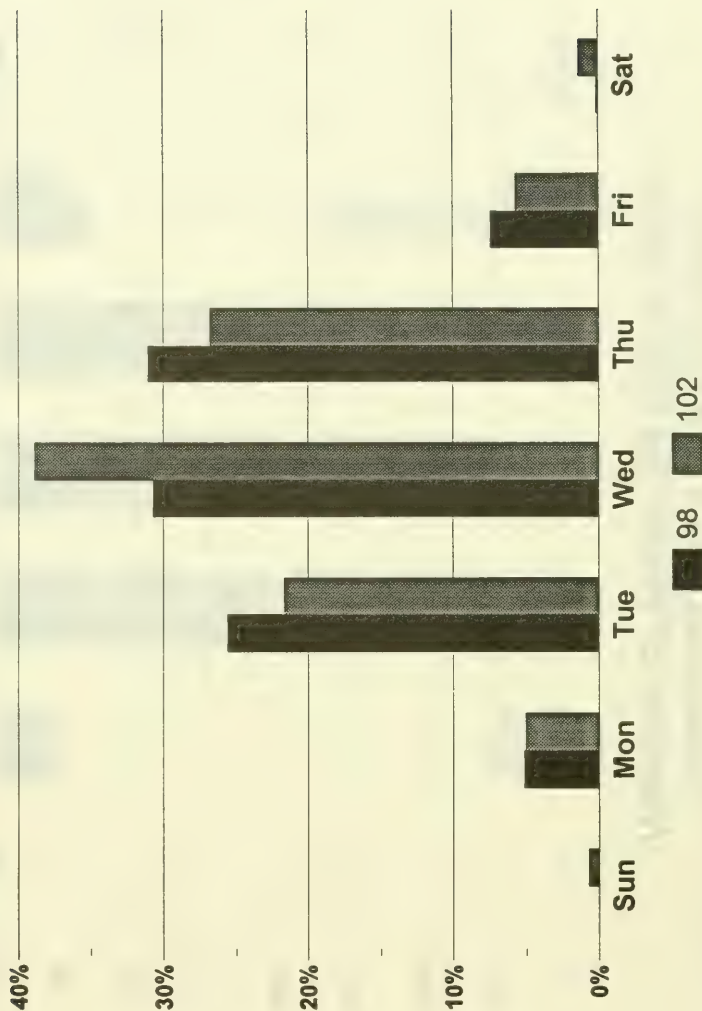
House Votes, 98th & 102d Congresses  
*Number of Votes, by Day of Week*





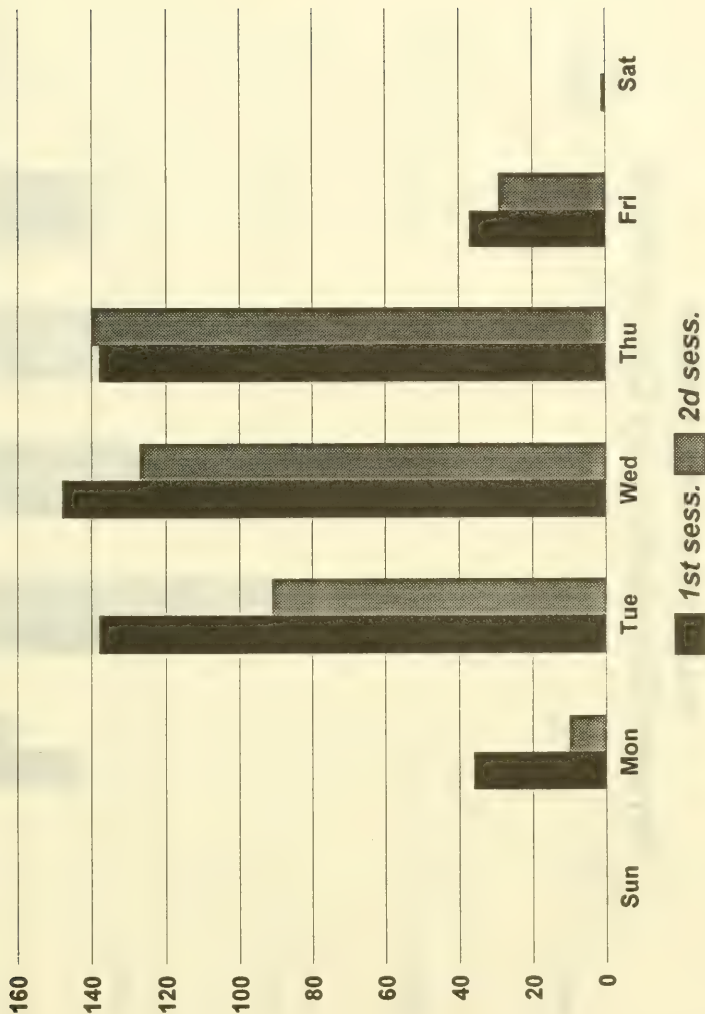
# House Votes, 98th & 102d Congresses

## *Percent Distribution, by Day of Week*

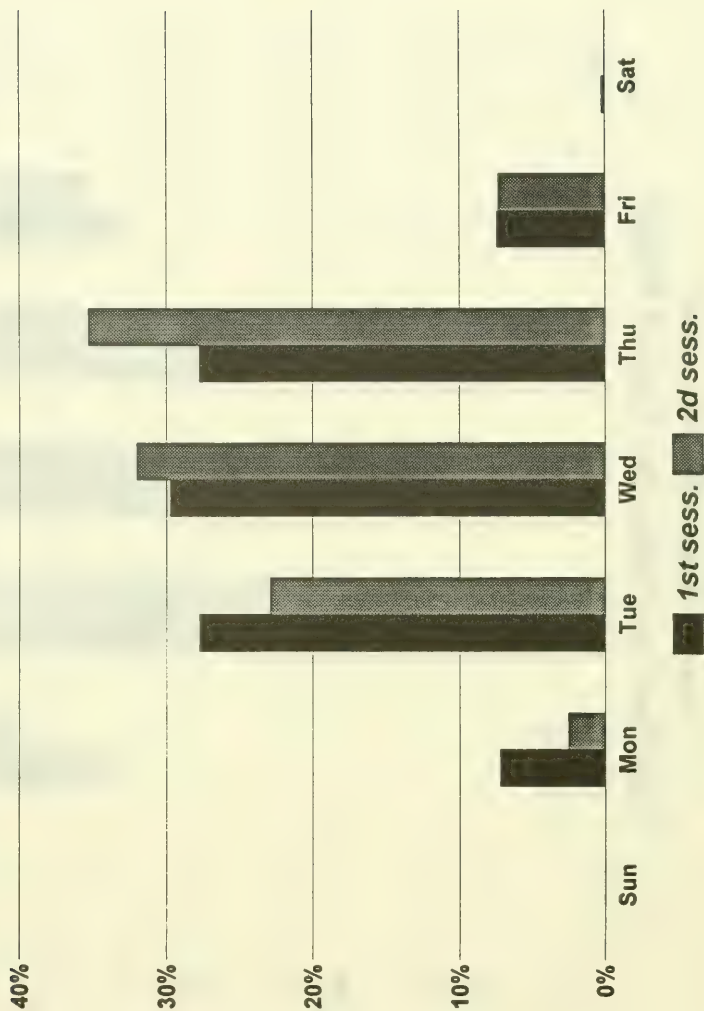


# House Votes, 98th Congress

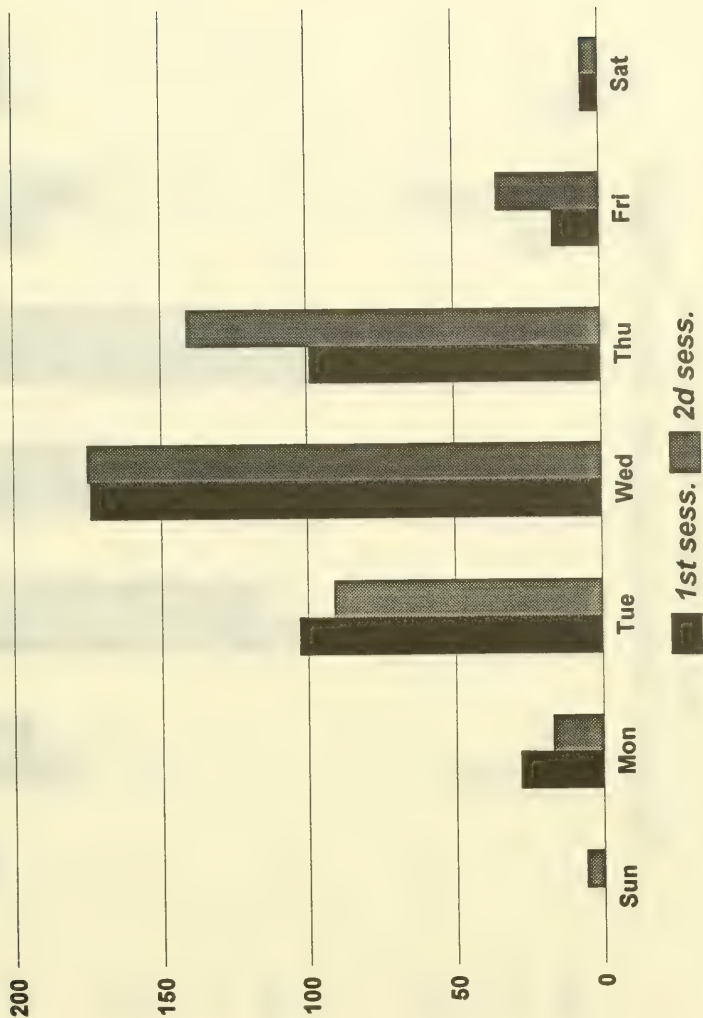
## *Number of Votes, by Day of Week*



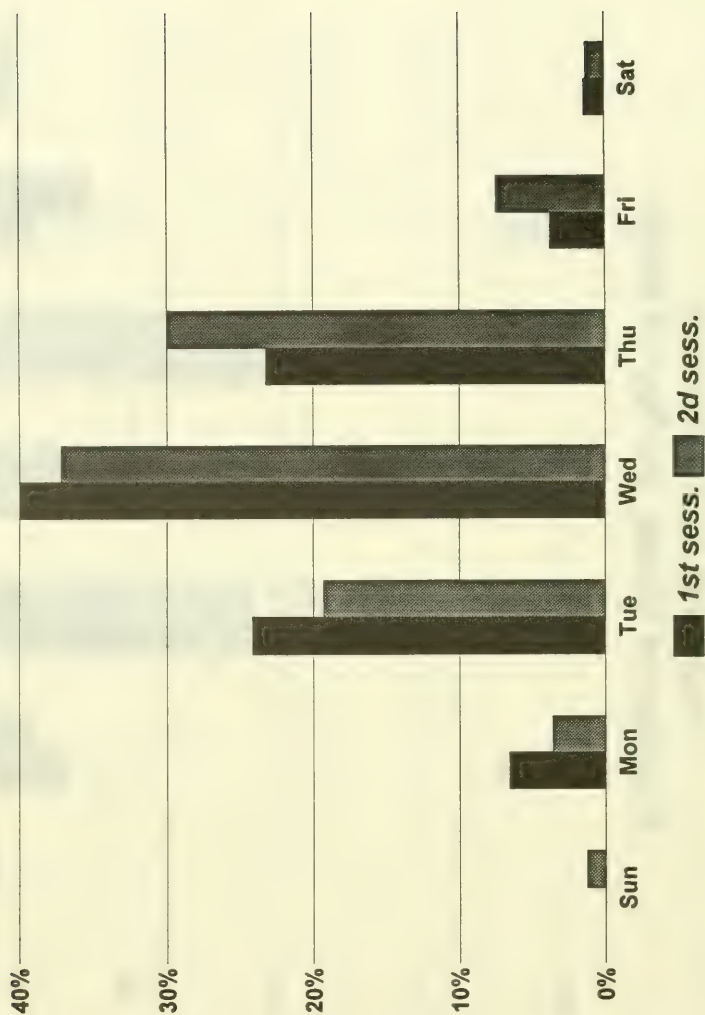
House Votes, 98th Congress  
*Percent Distribution, by Day of Week*



House Votes, 102d Congress  
*Number of Votes, by Day of Week*

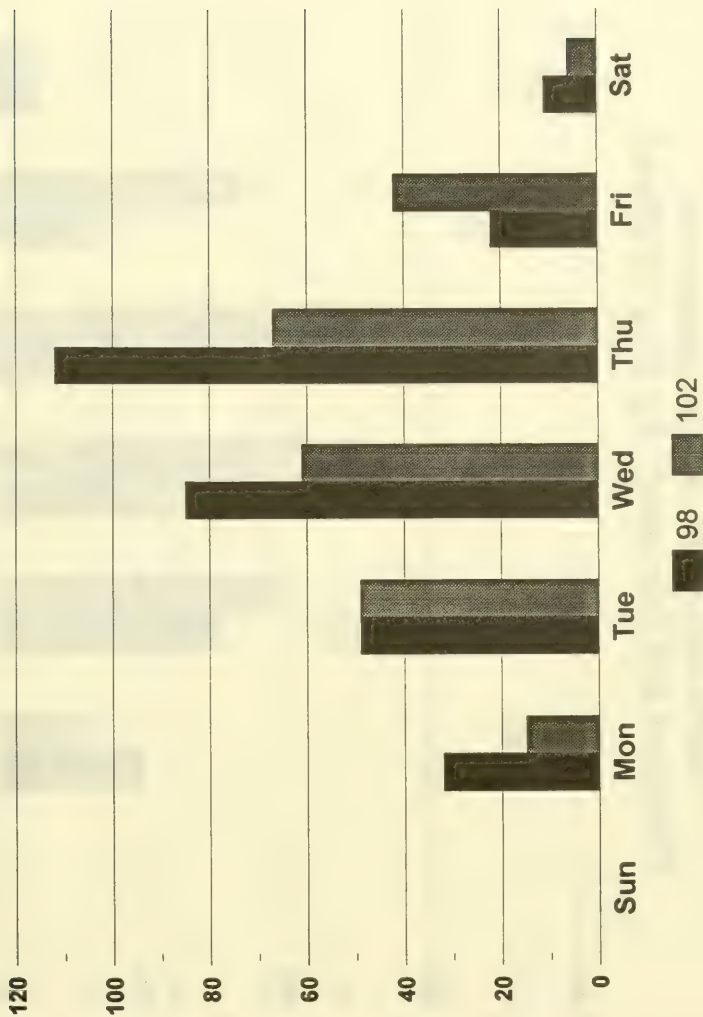


House Votes, 102d Congress  
*Percent Distribution, by Day of Week*

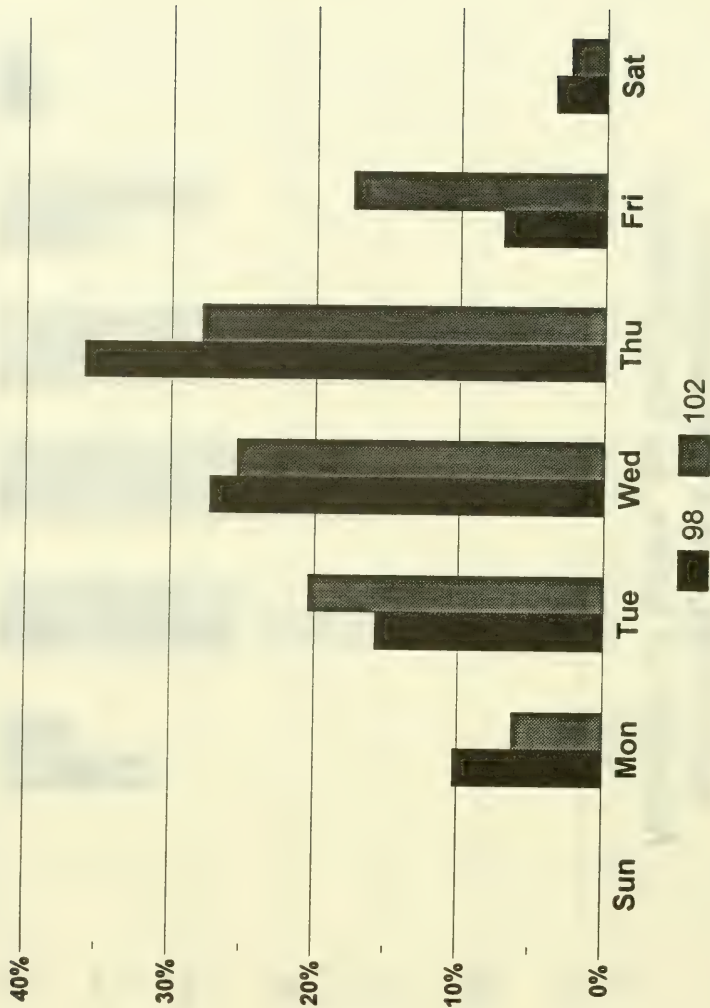




Senate Votes, 98th & 102d Congresses  
*Number of Votes, by Day of Week*

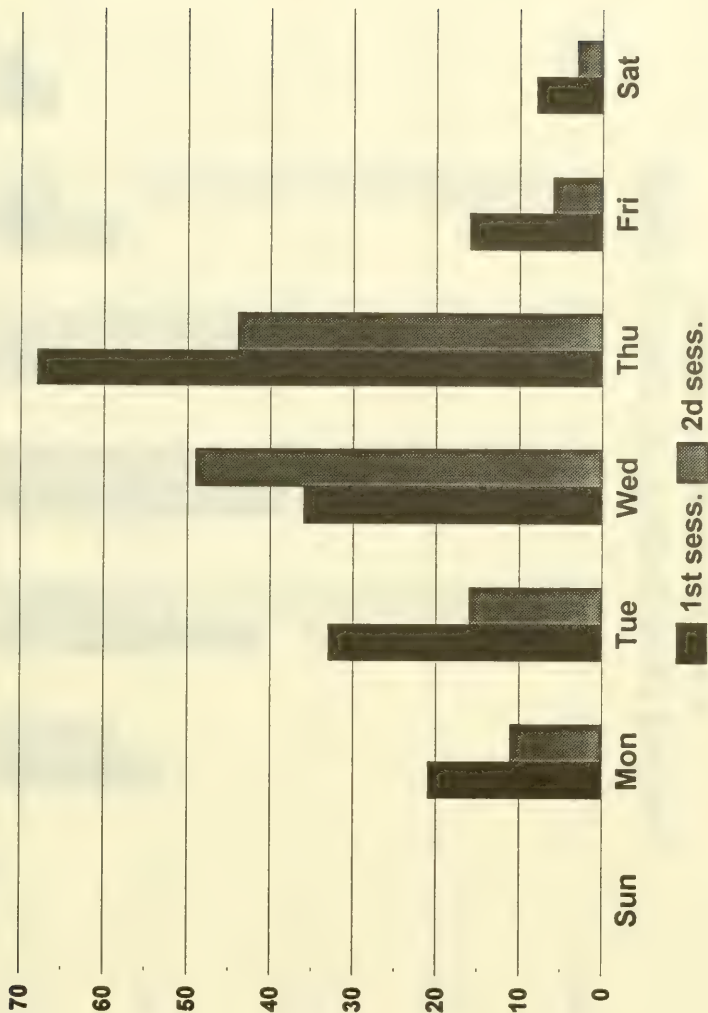


# Senate Votes, 98th & 102d Congresses Percent Distribution, by Day of Week

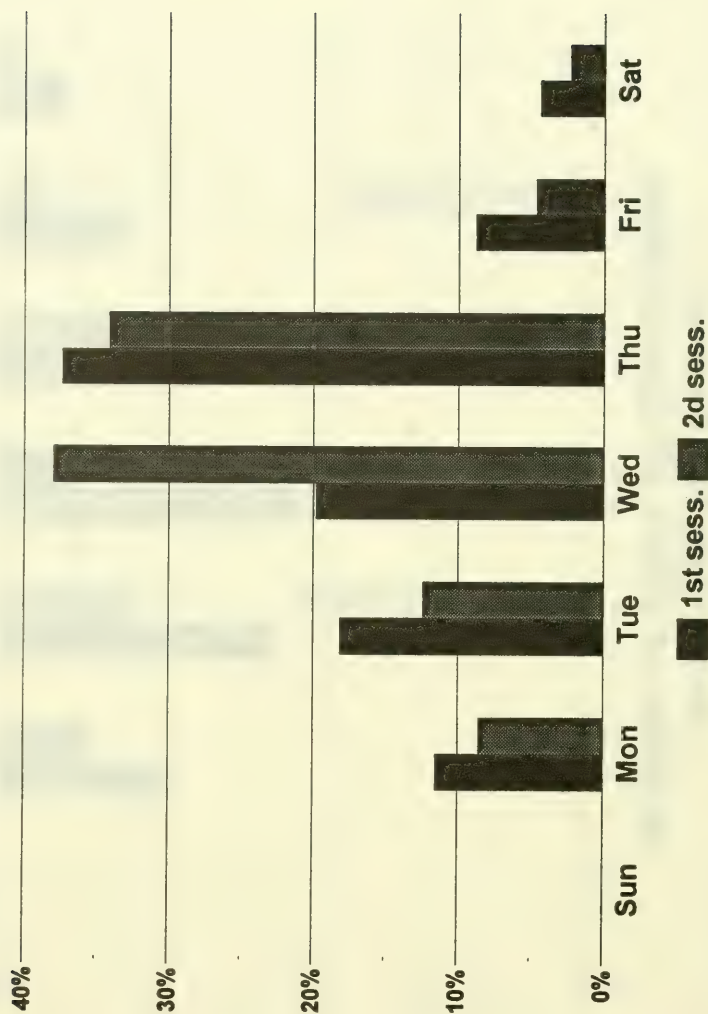


# Senate Votes, 98th Congress

## Number of Votes, by Day of Week

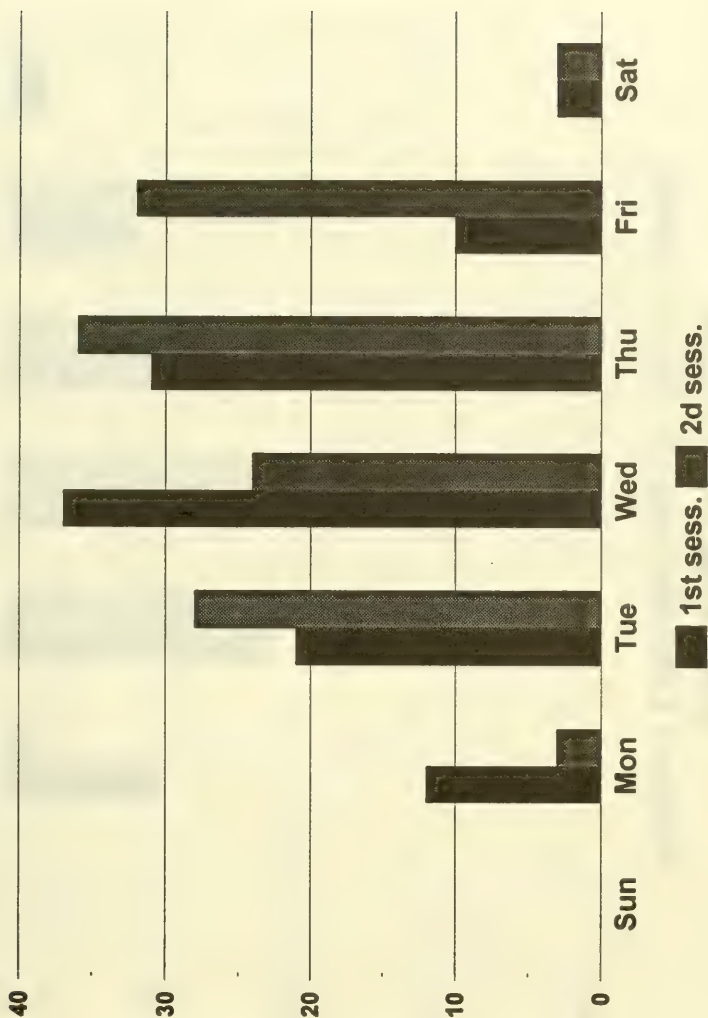


Senate Votes, 98th Congress  
*Percent Distribution, by Day of Week*



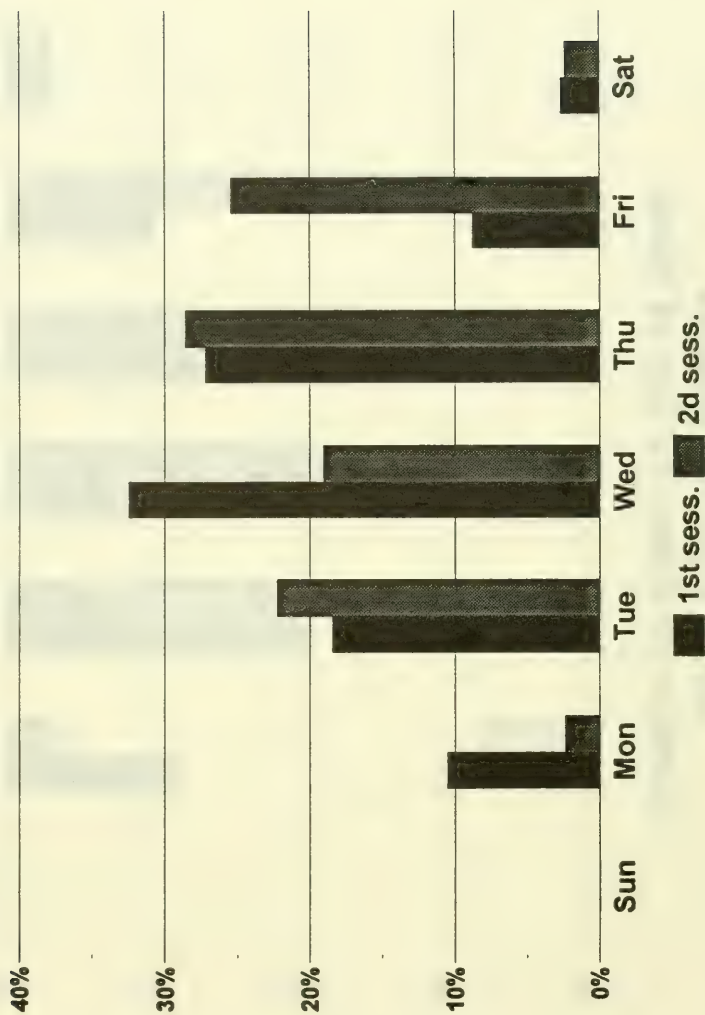
# Senate Votes, 102d Congress

## Number of Votes, by Day of Week





# Senate Votes, 102d Congress Percent Distribution, by Day of Week



Washington Post, April 19, 1993

Lloyd Cutler

## The Way to Kill Senate Rule XXII

Senate Rule XXII provides that the only way to cut off debate on a pending bill is by a motion for which 60 of the 100 senators vote aye. It also provides that Rule XXII and the other Senate Rules can be changed only by the vote of two-thirds of the senators present. When the minority party is united, 60 to 67 votes are very difficult to obtain, as the 43 Senate Republicans proved again earlier this month.

The pros and cons of allowing unlimited Senate debate are themselves debatable. A century ago, as described in Robert Byrd's masterful history of the Senate, Sen. Henry Cabot Lodge opposed it, saying that to "vote without debating is perious, but to debate and never vote is imbecile." Yet viewed from any point along the political spectrum, the right to filibuster has helped to block bad laws as well as good ones. And with the Senate split 57 to 43, the chances of getting two-thirds of the senators present to modify Rule XXII so as to permit a mere majority to cut off debate are virtually nil.

But there may be another way to attack Rule XXII. A strong argument can be made that its requirements of 60 votes to cut off debate and a two-thirds vote to amend the rules are both unconstitutional. While Article I of the Constitution allows each house to "determine the Rules of its Proceedings," this power cannot be used to subvert other express or implied provisions of the Constitution itself.

The text of the Constitution plainly implies that each house must take all its decisions by majority vote, except in the five expressly enumerated cases where the text itself requires a two-thirds vote: the Senate's advice and consent to a treaty, the Senate's guilty verdict on impeachments, either house expelling a member, both houses overriding a presidential veto and both houses proposing a constitutional amendment.

A powerful precedent for such a reading is the Supreme Court's holding in *Powell v. McCormack*—that the House of Representatives, despite its express power to "be the Judge of the... Qualifications of its own Members," could not add to the three standing qualifications for election to that chamber specified in the Constitution. Under this principle, the Senate could not constitutionally adopt a rule that its advice and consent to presidential appointments requires a two-thirds vote or any other supermajority, when the Constitution itself does not so specify.

Except in the five specified cases, the Framers implicitly decided that a minority of either house should not be able to block the majority from acting. That is why they adopted an express requirement that a majority of either house is sufficient for a quorum and rejected proposals for a higher quorum. Madison explained their reasons: "In all cases where justice or the general good might require new laws to be passed, or active measures to be pursued, the fundamental principle of free government would be reversed. It would be no longer the majority that would rule: the power would be transferred to the minority." The *Federalist Papers*, No. 58.

Article I, Section 3 provides another indication that only a majority vote is

### *How Democrats can change the rule that mandates a super-majority for cloture.*

intended for all but the constitutionally specified cases. It states that the vice president shall preside over the Senate, "but shall have no Vote, unless they be equally divided." According to Hamilton, the vice president was given a tie-breaking Senate vote "to secure at all times the possibility of a definitive resolution of that body." (The *Federalist Papers*, No. 68.) Surely the Senate's power to determine the rules of its proceedings would not allow it to require that all bills must pass by a two-thirds vote or by a margin of at least two, thus disabling the vice president from exercising his constitutional power to break a tie.

Equally objectionable under Article I, Section 3 is Rule XXII's built-in requirement that it and other Senate rules cannot be amended by majority vote, but only when two-thirds of the senators present vote "aye." The Constitution specifies no exception to the vice president's constitutional right to cast a tie-breaking vote, which necessarily includes votes on motions to amend the Senate's own rules. Since

Rule XXII denies this power to the vice president by requiring that any amendment requires an affirmative vote of two-thirds, it is plainly unconstitutional.

If the vice president, the majority leader, and at least 49 other Senate Democrats want to challenge the constitutionality of Rule XXII on the grounds advanced above, there is a potential scenario for doing it. The Senate Rules Committee, controlled by Democrats, would approve an amendment of Rule XXII permitting a majority to cut off debate after some reasonable period. When the amendment comes before the Senate, the Democrats would need to muster only 51 favorable votes (or 50 plus the vice president's vote). A Democratic senator would raise a point of order that this number is sufficient either to pass the amendment or to cut off debate against it, because the super-majority requirements of Rule XXII are unconstitutional. The vice president would support this view, backed up by an opinion of the attorney general. Following Senate custom on constitutional points, the

vice president would refer the question to a vote of the entire Senate, where the same 51 or more votes, or 50 plus the vice president's vote, would sustain it. The motion to amend Rule XXII would therefore pass.

The Republicans (and George Waddell) would charge that the pillars of the Republic were being torn asunder, but they would be on weak constitutional ground. They could take the issue to the Supreme Court, but at least in this lawyer's view, the odds would be against them. The court would rule either that the super-majority requirements of Rule XXII are indeed unconstitutional or that the Senate's majority vote to sustain the constitutional point of order presents a "political question" with which the courts would not interfere.

If the administration and the Senate Democrats prepare to play this constitutional card, their bargaining position in the upcoming negotiations on the size and shape of the economic stimulus package would be stronger. If the negotiations fail and the card is played, the objectionable features of Rule XXII could be swept into the dustbin of history.

*The writer, a Washington lawyer, served as counsel to President Jimmy Carter.*

George F. Will

## The Framers' Intent

The Republican filibuster against the Clinton "stimulus" package was a resounding educational success because it provoked liberal denunciation of the Senate's protection of the right of a minority to use extended debate to obstruct Senate action. At issue are two different stances toward government.

Is efficiency understood as the ability to implement the majority's will quickly, the primary value in government? Or is the primary value caution born of anxiety about government power, caution that respects the right of an intense minority to put sand in the gears of government?

Lloyd Cutler is a liberal critic of Senate Rule XXII, which requires 60 votes to curtail debate by imposing cloture. He is a distinguished Washington lawyer, seasoned by public service (he was President Carter's counsel) that unfortunately did not inoculate him against the temptations of institutional tinkering. The tinkering he favors would facilitate the essence of the liberal agenda—more uninhibited government. For example, a decade ago he recommended various reforms to undermine what he called an "anomaly" and what the Framers considered the essence of the constitutional system—the separation of powers.

Cutler finds Rule XXII not only politically but also constitutionally objectionable.

Politically it aggravates, he believes, the disjunction between public expectations and institutional functioning. The public expects modern presidents to formulate policies and lead Congress into supporting them. Rule XXII complicates presidents' attempts to fulfill that expectation.

But the answer to this problem (which modern, hyperactive presidents aggravate) is to educate—re-educate, really—the public to have more judicious expectations regarding the presidential role. Presidents have limited powers; the primacy of Congress is an older, sounder tradition than presidential supremacy. And the Senate is not obligated

to jettison one of its defining characteristics, permissiveness regarding extended debate, in order to pander to the perception that the presidency is the sun around which all else in American government—even American life—orbital.

Cutler's argument for the unconstitutionality of Rule XXII is:

"The text of the Constitution plainly implies that each house must take all its decisions by majority

### *Democracy is not simple majoritarianism.*

vote, except in the five expressly enumerated cases where the text itself requires a two-thirds vote; the Senate's advice and consent to a treaty, the Senate's guilty verdict on impeachments, either house expelling a member, both houses overriding a presidential veto and both houses proposing a constitutional amendment."

But the Constitution "implies" no such thing. Cutler's semantic sleight-of-hand is in the words "must take all its decisions." The Constitution provides only that, other than in the five cases, a simple majority vote shall decide the disposition by each house of business that has consequences beyond each house, such as passing legislation or confirming executive or judicial nominees. Procedural rules internal to each house are another matter. And the generation that wrote and ratified the Constitution—the generation whose actions are considered particularly illuminating concerning the meaning and spirit of the Constitution—set the Senate's permissive tradition regarding extended debate. There was something very like a filibuster in the First Congress.

Although the filibuster was often used by South-

erners against civil rights legislation, liberals have recently used it. When in 1957 the Senate selected to its history five outstanding senators whose portraits adorn the Reception Room, one was Wisconsin's liberal Robert La Follette (the others were Webster, Clay, Calhoun and Taft). La Follette, one of the most aggressive filibusters, led, along with another liberal, Nebraska's George Norris, the 1917 filibuster against the arming of the U.S. merchant fleet, the filibuster that caused the Senate to adopt its first cloture rule.

Democracy is trivialized when reduced to simple majoritarianism—government by adding machine. A mature, nuanced democracy makes provision for respecting not mere numbers but also intensity of feeling. And ask yourself: Is there anything the nation has ever wanted, broadly and deeply, that a filibuster prevented the government from giving? Clinton's "stimulus" package would have passed if the country wanted it.

Cutler approvingly quotes Sen. Henry Cabot Lodge saying, in 1893, in opposition to the right to filibuster, that "to vote without debating is perilous, but to debate and never vote is imbecile." Cutler does not note that by 1903 Lodge, older and wiser, had changed his mind, saying he would "much rather take the chances of occasional obstruction than to put the Senate in the position where bills could be driven through under rules which may be absolutely necessary in a larger body like the House . . . but which are not necessary here."

Liberal critics of filibustering say, as they do about many good things, that it was fine long ago, in a slower, simpler age; but not now, when there is so much that government must do, immediately. Conservatives answer with words from one of Trollope's parliamentary novels: "The best carriage horses are those which can most steadily hold back against the coach as it trundles down the hill."

Howard H. Baker Jr.

# Rule XXII: Don't Kill It!

Debates about the U.S. Senate's rules of debate ["The Way to Kill Senate Rule XXII," op-ed, April 19] rather quickly descend—or rise, depending on one's perspective—to a level of arcane which only a dedicated parliamentarian could love.

But I ask the reader to bear with me, because of cherished constitutional principle and billions of our tax dollars are at risk if the Senate should heed my friend Lloyd Cutler's recent call for the abolition of Rule XXII.

Rule XXII, for the heretofore blissfully uninitiated, is the Senate rule which establishes the terms for cutting off debate on a particular matter when enough senators decide they've heard enough.

The question at hand, of course, is the definition of "enough." The Senate's rules currently say that three-fifths of senators duly chosen and sworn (60 of 100) have to say "enough" before debate can be cut off (or, in the more civilized parlance of the Senate, before cloture may be invoked).

The rule used to be that two-thirds of senators present and voting had to vote for cloture, but the three-fifths majority requirement was adopted in 1975, and between 1806 and 1917 there was no rule of the Senate limiting debate at all.

Mr. Cutler now insists that 60 senators is too many, that a simple majority should be enough, that indeed it is *unconstitutional* for the Senate to require super-majority votes except where the Constitution itself calls for them.

(Two-thirds majorities are required in the advice and consent to treaties, the ratification of constitutional amendments, the overriding of presidential vetoes, the expulsion of a senator and the impeachment of federal officials.)

He also insists that changing the rule itself requires too many senators to vote in favor, that "Rule XXII and the other Senate rules can be changed only by the vote of two-thirds of the senators present."

Mr. Cutler comes to these conclusions, of course, only days after a determined Republican minority in the Senate mounted a successful filibuster against President Clinton's emergency economic stimulus package.

Gridlock, say Messrs. Cutler and Clinton. Enough.

Those are the politics. These are the facts.

■ A simple majority of senators can change any rule they wish to change, including Rule XXII. Rodrick's Senate Procedure, the parliamentary bible of the world's greatest

deliberative body, states on page 1217 that "it takes only a majority vote to amend the rules."

■ On votes for or against final passage of any measure that comes before the Senate, except treaties and the rest as specified by the Constitution, a simple majority carries the vote.

But the Senate is clearly empowered to establish its own rules for debate, including super-majority cloture, prior to voting on final passage. Article I, Section 5 of the Constitution specifically allows each house of Congress to "determine the Rules of its Proceedings."

Thus may the Senate empower a very small subset of

## Taking Exception

senators—a standing committee, for example—or not, for the consideration of the full Senate.

Thus, the Senate may establish rules, including rules requiring super-majorities for cloture, points of order or other procedural purposes *prior* to votes on final passage.

■ The Senate has the power to declare its own rules unconstitutional. It has been invited to do just that several times with respect to Rule 22, and it has always affirmed the constitutionality of that rule.

We should be careful here not to casually conclude, as Mr. Cutler does, that the Supreme Court would, if asked to review the constitutionality of the cloture rule, declare the matter a political question and do nothing. There is plenty of precedent for the court to review actions of Congress. The first such precedent was *Marbury v. Madison* in 1803. Cutler proposes to shake enough pillars of democracy without shaking that one.

In Sen. Robert Byrd's monumental "History of the United States Senate," Byrd recites many useful precedents during which the Senate affirmed super-majority cloture, each time while under Democratic control. Indeed, at various times while under Democratic control, indeed at various times Democratic Senate majority leaders such as Lyndon Johnson and Mike Mansfield opposed efforts to do away with the super-majority cloture requirement.

Concluding the section on cloture in his Senate history, Sen. Byrd addresses the use of cloture as a mechanism to balance individual rights and the prerogative of the Senate

to conduct its business. He writes that "the current cloture rule is the product of decades of trial and experience aimed at curbing the extremes in the use of filibusters to block Senate action."

"It has discouraged—though not eliminated—post-cloture filibusters and has also provided a more effective tool in overcoming all but the most determined filibusters carried on by a senate minority."

"Its effectiveness is aided greatly by the strengthening precedents that have been established over the past century, some of which antedate the first cloture rule in 1917."

While appreciating this conclusion, I must add that Cutler's proposal would do a good deal more than overturn a few dusty precedents.

Doing away with super-majority votes would, among other things, venerate the only thing that passes for fiscal discipline in this city—the Budget Act, which is built on the use of 60-vote super-majorities.

And even more important, it would topple one of the pillars of Americans democracy: the protection of minority rights from majority rule.

The Senate is the only body in the federal government where these minority rights are fully and specifically protected. It was designed for that purpose by America's Founders, who saw it, in Jefferson's words, as "a saucer into which the nation's passions may be poured to cool."

One thinks, for example, of President Truman's angry attempt to draft striking railroad workers into the Army in 1946—a clear issue of power denied by a successful Senate filibuster.

Even presidents make mistakes, and depending on their political strength at any given time, they may bring congressional majorities along with them down the wrong road.

The House of Representatives has no provision for the protection of minority rights. From its inception, it has been a majoritarian institution. The Senate is different, as was intended by the Constitution's Framers. Rule XXII protects not only the rights of the minority, but the deliberative process of the Senate itself.

*The writer, a Republican senator from Tennessee from 1966 to 1984, was majority leader from 1981 to 1984.*



## On Killing Senate Rule XXII (Cont'd)

In my op-ed of April 19, in which I argued that the Senate rule requiring a super-majority vote to cut off debate is unconstitutional, I tempted the gods by suggesting that George Will might disapprove. In his own column the following Sunday ("The Framers' Intent," op-ed, April 25), Will hurled down his lightning bolts from Mount Olympus. On Tuesday (op-ed, April 27) another Olympian, Howard Baker, hurled a few of his own. I think they both missed.

Will says that the "generation that wrote and ratified the Constitution . . . set the Senate a permissive tradition regarding extended debate." But that is historically wrong. Rule 10 of the Continental Congress, following the precedent of the English Parliament and Jefferson's Manual of Parliamentary Practice, allowed the motion for "the previous question," under which debate could be cut off by a simple majority. So did Sections 8 and 9 of the rules adopted by the first Senate in 1789. The motion for the previous question was not eliminated from the Senate rules until 17 years later, in 1806.

The generation that wrote and ratified the Constitution expressly allowed a simple legislative majority to cut off debate. Perhaps for this reason, Senate filibusters were extremely rare in the first two decades of the republic.

Will dismisses as "semantic sleight of hand" my contention that the Constitution implicitly requires a simple majority vote on all matters other than those where the text requires a super-majority of two-thirds. But in *United States v. Ballin*, decided in 1892, the Supreme Court held it to be "the general rule of all parliamentary bodies" that "when a majority is present, the act of a majority of the quorum is the act of the body. This has been the rule for all time, except so far as in any given case, the terms of the organic act under which the body is assembled have prescribed specific limitations."

This principle is not, as Will suggests, limited to votes that have a "consequence beyond each house, such as passing legislation or confirming executive or judicial nominees." The Constitution itself provides that "a majority of each [house] shall constitute a quorum to do business." When the Senate adopts binding rules to govern its proceedings or takes up a motion to cut off debate on any matter before it, it is certainly doing "business."

In any event, it is plain as the nose on Pinocchio's face that when a Senate rule requires a large super-majority to cut off debate, that rule does have a consequence beyond the Senate. A rule that can and does block the majority of the Senate, the majority of the House and the president from enacting and signing an important bill into law certainly has a consequence beyond the Senate chamber. The same is true of a treaty that is not ratified, or a nominee for the Supreme Court or the Cabinet who is not confirmed because 60 votes cannot be found to break a filibuster.

Will also asks, "Is there anything the nation has ever wanted, broadly and deeply, that a filibuster prevented the government from giving?" Yes, George, there is. Here are a few examples:

■ The anti-lynch bills of 1922, 1935, 1937 and 1938.

■ The Constitutional amendment abolishing the poll tax, for 22 years (1942-1964).

■ The fair employment practice bills, for 18 years (1946-1964).

■ The Genocide Treaty, for 12 years (1974-1986).

■ Campaign financing reform, for five years (1967-1971).

And the Civil Rights Act of 1964 was filibustered for 74 Senate days (93 calendar days) before the necessary super-majority of two-thirds for cloture could be forged.

Will also says that "democracy is inviolated when reduced to simple majoritarianism." Will's favorite constitutional authority, James Madison, disagreed. He supported the Philadelphia Convention's decision that a majority of each house would constitute a quorum to do business and its rejection of proposals for a super-majority requirement. He argued that under a super-majority requirement the minority would rule, and thus the "fundamental principle of free government would be reversed." The *Federalist Papers*, No. 68.

Unlike Will, Howard Baker concedes that all Senate business, including the adoption of its own rules, must be done by majority vote, excepting only those cases where the Constitution expressly requires two-thirds. And he correctly points out that Rule XXII does not require a two-thirds vote to amend an existing rule; instead, as I should have made clear, it requires a two-thirds vote to cut off debate on a motion to amend an existing rule.

But surely the two have the same effect, as we have learned every time the Senate has considered a change in Rule XXII. Such attempts were defeated by filibusters in 1961, 1963, 1967, 1969 and 1971, before cloture was finally

achieved to cut off debate on the modest amendments made in 1975 (60 votes to cut off debate on all business except amending the rules, for which the two-thirds requirement still counted).

Senator Baker's argument proves too much. If the Senate can constitutionally require a super-majority vote to cut off debate on a motion to amend its rules, it can constitutionally require unanimous consent to cut off debate on this or any other pending matter, as it did from 1806 to 1917. That would mean that any minority, down to a single senator, could constitutionally prevent the Senate from doing business. It would make a mockery out of the express constitutional provision that a simple majority is sufficient for a quorum, and the implied provision—which senator Baker concedes—that a mere majority is constitutionally sufficient to pass any measure, including an amendment of the rules. It would mean—contrary to Madison's account of the framers' intentions—that the majority would prevail.

Senator Baker devotes most of his piece to the merits of occasional filibusters and of requiring a super-majority to cut off debate. The issue is not whether a super-majority is desirable, but whether it is constitutional. That is the question that every conscientious senator needs to face.

Senator Baker believes that the Supreme Court would accept and decide a case seeking to raise this issue. I hope he turns out to be correct. But in addition to the question of whether the courts would resolve a "political question" arising within the legislative

branch, there are technical problems of standing and jurisdiction to be solved.

Judge Harold Greene has recently accepted and decided the merits of a fairly similar case, in which 14 Republican House Members sued the Clerk of the House to challenge the constitutionality of a new House rule allowing D.C. Delegate Eleanor Holmes Norton and four other delegates to vote in the House Committee of the Whole. This decision is now on appeal. If Judge Greene is upheld, and if a way is found to bring a motion raising the constitutionality of Rule XXII to an up or down majority vote on the Senate floor, as suggested in my op-ed of April 19, senators on the losing side of the vote might be able to sue the secretary of the Senate on the same theory.

But in the first instance, and perhaps the last, the constitutional issue is one for the senators and the vice president, as presiding officer, to decide. They should get the best advice they can from the attorney general, the counsel to the Senate and the many constitutional scholars and lawyers who will gladly join the fray. The Constitution makes senators the judges of impeachments and the qualifications of their own members. They also have the high judicial duty of addressing and deciding the constitutionality of their own rules.

*The writer, a Washington lawyer, served as counsel to President Jimmy Carter.*

Washington Post May 3, 1993 p. A19



Norman Ornstein

# Rule XXII (Cont'd): Everybody Missed the Point

The debate in The Post between Lloyd Cutler [op-ed, April 19, May 3] on side one and George Will [op-ed, April 25] and Howard Baker [op-ed, April, 27] on the other has been a fascinating seminar on the Senate's Rule XXII allowing filibusters. Cutler rals against them and asserts they are unconstitutional. Will and Baker defend them as an essential component of a republican form of democracy.

Both side miss the relevant point. The issue is not really *whether* the filibuster but *whether* the filibuster. Practically speaking the Supreme Court is not going to touch the issue of the constitutionality of a rule that has been in existence and used for many decades. We are stuck with the filibuster, like it or not. But we are not necessarily stuck with *this* filibuster. The real issue is whether and how we can change the rule and the practice to make it both effective and meaningful as a part of deliberative democracy.

Many Americans, to be sure, associate the filibuster with southern conservatives like Theodore Elbort blocking civil rights bills for a generation. But there was a time when the filibuster represented drama—bringing the Senate to a halt so that an intensely felt viewpoint, even if a minority one, could be heard—and listened to—by everybody. If some of the debate itself might be irrelevant, the issue in question would receive a focus and clarity that were the essence of a deliberative process.

For many Americans, that kind of filibuster was typified by the movie "Mr. Smith Goes to Washington." Jimmy Stewart, playing Sen. Jefferson Smith, stood up on the pre-Rule XXII Senate floor, where any one individual could block action as long as he

could stand there and talk, and did just that on a point of honor and integrity until he collapsed from physical exhaustion. It was noble and dramatic.

But that kind of filibuster is gone. In the early 1900s, over frustration with lengthy civil rights delays, Majority Leader Mike Mansfield moved to a "two-track" system of filibusters, where for many issues, a filibuster could be announced and carried out but other legislative business moved along on a separate track. No more all-night sessions, with senators sleeping on cots off the Senate floor, or waiting to see if Strom Thurmond could break the record and hold the floor for a full 24 hours (he did). Instead, a filibuster would simply mean that two-thirds of senators present and voting would have to vote for cloture to break the logjam on a bill and move ahead.

The "two-track" system removed the drama and destroyed the positive element of the filibuster. No more a tactic reserved for the most important of issues, requiring the most extreme of personal sacrifices, to draw a line in the dust for the nation. Instead, simply raising the bar from 50 to the current 60 votes. Call it the filibummer.

This New Age filibuster now is invoked frequently and threatened regularly by individual senators to gain leverage and bargaining power. The norms of the Senate are so lax that no one suffers vindication or even criticism for doing so. The relevance of the Senate as a great deliberative body is lost. Deliberation is a joke.

The solution? First bring back the old-style filibuster for important issues. If it is important enough to delay, it is important enough to require senators to stay all night, and through weekends, with an extremely high personal discomfort level, to make their point. Cloture

will come a lot easier if the alternative is another few nights on a narrow cot in the hallway. And the function of the Senate, to deliberate and to dramatize for the nation when sharp differences exist on meaningful issues, would be greatly improved. This step does not require rules changes—it can be implemented by the majority leader.

But rules changes are also desirable. There are too many opportunities to filibuster now, both before a bill is actually up for consideration, during consideration and again at the end of consideration. First, the Senate should outlaw filibusters on the motion to proceed to consideration of a measure.

Second, the Senate should in fact create two classes of filibusters to accommodate the current demands of members. Class I filibusters would be the Mr. Smith variety, under regular rules and procedures, with 60 votes required to bring cloture. Class II would operate like current filibusters. But no single senator could begin a Class II filibuster just by announcing it. It would require ten signatures by senators on a petition. And if the first cloture vote would take 60 votes to end the debate, the second would require only 55, and the third, a simple majority.

These changes would expedite business in the Senate, while improving real debate and deliberation and restoring a positive function to the filibuster. Let's forget the theoretical question of whether there should be a filibuster at all—and do something positive about the problem.

*The writer is a resident scholar at the American Enterprise Institute for Public Policy Research.*

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May 12, 1993

TO : Joint Committee on the Organization of Congress

SUBJECT : Measures Proposing Changes in Floor Procedure, Agenda-Setting, and Scheduling in the 102d and 103d Congresses

This memorandum lists measures introduced in the 102d and 103d Congresses (to May 7, 1993) that propose changes in rules and procedures governing floor proceedings, including agenda-setting and scheduling for floor proceedings. Measures are categorized by whether they would affect both chambers or the Senate or House only. Within each category measures are grouped alphabetically by topic. Various data are provided for each measure, including: measure number, date of introduction, chief sponsor, and a brief summary.

Excluded are measures that, while they affect floor procedure, deal primarily with the budget process, or with intercameral or interbranch issues. If a measure listed contained provisions addressing other issues along with those dealing with floor procedure and scheduling, the fact is noted, but the other provisions are not specified.

For the 102d Congress, the measures listed, are all those dealing with issues in the areas named, selected from those identified in:

U.S. Library of Congress. Congressional Research Service. *Congressional Reform Proposals Introduced in the First Session of the 102d Congress*. CRS Report for Congress no. 91-858 S, by Frederick H. Pauls. Washington, November 26, 1991. 20 p.

---. *Congressional Reform Bills Introduced in the 2d Session of the 102d Congress*. CRS Report for Congress no. 92-921 S, by Frederick H. Pauls. Washington, December 1, 1992. 42 p.

Almost all the summary descriptions are taken from or based on these Reports. For the 103d Congress, measures were identified based on files maintained by the author of those Reports.

## BICAMERAL

### Adjournment

#### 103d Congress

*H.R. 1548, 3/31/93, Nussle et al..*

To require annual *sine die* adjournment by Sept. 30.

#### 102d Congress

*H.J.Res. 7 (1/3/91, H60), Moakley.*

To repeal section 122 of the Legislative Reorganization Act of 1946, as amended, fixing a date for *sine die* adjournment of the Congress.

*H.R. 4297 (2/25/92, H587), Nussle et al.*

To provide for the adjournment of Congress by September 30 (and dock Member pay for every day Congress is in session from October 1).

### Cabinet Question Period

#### 102d Congress

*S.Con.Res. 32 (4/25/91, S5137, S5306-S5310), Dixon.*

*H.Res. 155 (5/16/91, H3160, E1816-E1817), Gejdenson et al..*

To establish such a period in the House or Senate.

(See also "Cabinet Question Period" under House.)

### Commemorative Legislation

#### 102d Congress

*S. 1112 (5/21/91, S6218-S6219), Hollings et al..*

*H.R. 68 (1/2/91, H55), Boehlert et al..*

*H.R. 1882 (4/17/91, H2373), McCurdy et al..*

To create a Presidential Advisory Review Commission to recommend commemorative days, weeks, months, or years to the President who will decide whether they shall be so declared.

(See also "Commemorative Legislation" under House.)

## HOUSE

### Bills and Other Measures

#### 103d Congress

*H.Res. 27, 1/5/93, Zimmer et al..*

To prohibit bills and joint resolutions from containing more than one subject.

### Cabinet Question Period

#### 102d Congress

*H.Res. 155 (5/16/91, H3160, E1816-E1817), Gejdenson et al.*

To amend House rules to establish in the House during 102d Congress on the first Tuesday of each month.

*(See also "Cabinet Question Period" under bicameral measures.)*

### Commemorative Legislation

#### 102d Congress

*H.Res. 30 (1/11/91, H386), Holloway.*

To prohibit consideration in the House of legislation authorizing commemorative periods or other commemorations.

*(See also Republican Rules Reform Package, H.Res. 127.)*

*(See also "Commemorative Legislation" under bicameral measures.)*

### Consideration and Voting

#### 103d Congress

*H.Res. 26, 1/5/93, Zeliff.*

To prohibit putting the question on final passage of any measure until copies of it have been available to Members for at least one day.

**Debate on Major Policy Issues**

**102d Congress**

*H.Res. 28 (1/10/91, H195), Owens.*

To allow germane one-minutes during debate on major policy issues in the House.

**Delegate Voting in Committee of the Whole**

**103d Congress**

*H.Res. 60, 2/3/93, Solomon.*

To postpone implementation of Rules permitting Delegates to vote in Committee of the Whole until the House separately determines their propriety.  
(*Ruled not to raise a question of the privileges of the House, 2/3/93, H379.*)

**Discharge Petition**

**103d Congress**

*H.Res. 134, 3/18/93, Inhofe.*

To provide for publication of names of Members signing a discharge petition.

**102d Congress**

*H.Res. 250 (10/17/91, H8101), Sensenbrenner.*

To require all signatures on discharge petitions to be made public immediately.

(*See also H.Res. 127, 102d Congress, under "Multiple Reforms".*)

**Germaneness**

**102d Congress**

*H.Res. 383 (2/27/92, H847), Gillmor.*

To prohibit the Rules Committee from reporting rules that waive the germaneness requirement.



## Multiple Reforms

*103d Congress**H.Res. 36, 1/21/93, Michel.*

Among other provisions, to

- prohibit referral of a vetoed bill to committee so as to prevent a vote on overriding;
- prohibit broadcast views of the full House chamber during special orders only;
- direct the Speaker to announce a legislative program and schedule for each session of Congress;
- prohibit special rules from precluding a motion to recommit with instructions;
- require the Rules Committee to give notice before reporting a restrictive special rule;
- require a two-thirds vote for the consideration of a special rule containing self-executing provisions;
- permit a separate vote on any Budget Act waiver provisions contained in a special rule;
- establish a special calendar for the consideration of commemorative measures;
- require the *Congressional Record* to be a verbatim account;
- make the Pledge of Allegiance the third order of business on each day;
- require motions to suspend the rules
  - to be offered by direction of the committee of jurisdiction or by its chair and ranking minority member,
  - not to authorize or appropriate more than \$50 million annually,
  - to receive one day's notice, and
  - not to propose constitutional amendments;
- require the names of signers of any discharge petition to be published regularly after it obtained 100 signatures;
- repeal the rule permitting two-day delay in considering questions of the privileges of the House;
- repeal the rule permitting delegates to vote in Committee of the Whole;

and direct certain committees to report other House reform legislation.

*102d Congress**H.Res. 127 (4/17/91, H2374), Edwards (OK) et al.*

To amend the Rules of the House on, among other things,

- consideration of vetoes,
- broadcast coverage of House floor proceedings,
- advance legislative scheduling,
- consideration of commemoratives,
- limits on use of suspension, and
- restrictions on authority of Rules Committee in writing rules for bills.

*H.R. 4224, Comprehensive Congressional Reform Act (2/14/92, H417, E288-289), Fawell.*

Among other provisions, to require a two-thirds vote to waive the House's 3-day rule and its germaneness rule as it applies to amendments adopted in conference.

*H.Res. 419, The House Reform Task Force Proposal (4/3/92, H2319-H2321, H2324), Michel and other Members of the Republican Reform Task Force.*

Among other provisions, to

- require the Speaker to announce a legislative program and sessions and recess schedule for the year,
- require a 2/3 vote in order for a Rules Committee report to be considered the same day or the next calendar day of the same legislative day,
- forbid any rule (resolution) that would preclude the offering of the motion to recommit with instructions,
- preclude closed rules unless the chairman of the Rules Committee announces 4 legislative days prior that the Committee might recommend a less than open rule,
- require a 2/3 vote for adoption of any self-executing rule,
- prohibit the Rules Committee from reporting any budget act waiver unless explained, justified, and cost estimated,
- create a Commemorative Calendar,
- make the Pledge of Allegiance the second order of daily business,
- limit use of suspension to measures requested by committee chairs and to forbid bills authorizing more than \$50 million in any fiscal year from being considered under suspension,
- require printing in the *Record* of names on discharge petitions,
- require that at least one attorney in the office of the parliamentarian be appointed by the minority party, and
- require a roll call vote on any proposed changes to the Rules of the House.

*(Defeated April 9 as Republican substitute to Democratic proposal for a House Administrator and Inspector General and for other purposes, by vote of 159-254, H 2535-2544, H 2547-2583.)*

*H. Res. 421 (4/7/92, H2407), Arney.*

To reform the legislative process in the House by, among other things,

- curtailing restrictive rules;
- requiring two-thirds vote for self-executing rules to be adopted; and
- requiring only one third of membership for a discharge petition to take effect.

*H.Res. 469 (5/21/92, H3729, H3725), Coleman (MO).*

To institute certain procedural reforms in the House, including among others an annual legislative agenda and restrictions on closed rules.

*H.Res. 502 (6/24/92, H5183), Hefley.*

Among other provisions, to make it more difficult to adopt restrictive rules for debate, amendments, and the motion to recommit.

(See also 6/25/92, H5187, E2001.)

*H.Res. 565, Priority Reforms for a New House Resolution of 1992, 9/15/92, H8575, Solomon, Dreier, and Emerson.*

To amend the Rules of the House to assure a more orderly, deliberative, and accountable legislative process, including, among other provisions, by

- requiring the Speaker to announce an annual agenda and consult with the Minority Leader about the schedule for each week; and
- prohibiting special rules that prevent amendatory instructions in a motion to recommit, except on Senate measures to be passed in lieu of House-passed measures.

## **Privileges of the Floor**

### *102d Congress*

*H.Res. 118 (3/21/91, H2015), Hertel.*

To grant floor and speaking privileges to former Presidents unless they resigned under duress.

## **Restrictive Rules**

### *103d Congress*

*H.Res. 139, 3/24/93, Gilchrest et al..*

To require a three-fifths vote to adopt any restrictive rule.

*H.Res. 54, 1/27/93, Hefley.*

Among other provisions, to

- protect Minority right to move to recommit with instructions and
- require a two thirds vote for a special rule waiving points of order.

## **Special Order and One-Minute Speeches**

### *103d Congress*

*H.Res. 125, House of Representatives Reform Resolution of 1993, 3/10/93, Peterson (MN).*

Among other provisions, to

- abolish special order and one-minute speeches, and
- prohibit extensions of remarks not related to legislative business before the House or its committees.

**102d Congress**

*H.Res. 439 (4/29/92, H2809), Taylor (MS).*

To eliminate the televising of special order speeches as part of the House proceedings of the day and have them delivered and televised from other than the Hall of the House.

*H.Res. 458 (5/14/92, H3336), Miller et al..*

To eliminate special order speeches on the floor and the insertion of extensions of remarks in the *Congressional Record*.

*H.Res. 553 (8/11/92, H8022), Peterson (MN).*

Among other provisions, to

- abolish special order and one-minute speeches, and
- prohibit extensions of remarks not related to legislative business before the House or its committees.

**Unfunded Federal Mandates****102d Congress**

*S. 2348, Federal Mandate Relief Act (3/12/92, S3458, S3490-S3491), Mack.*

To allow a point of order to preclude legislation from coming to the floor if it imposes unfunded Federal Government mandates on State and local governments. (Relatedly, *S. 2349, Amendment of the 1974 Budget Act, March 26, S4249-S4251, Mack*, would require the Federal Government to pay the costs of any such mandate that is enacted.)

**SENATE****Conference-Related Procedure****103d Congress**

*S.Res. 29, 1/26/93, Mitchell.*

To establish a procedure under which the Senate can go to conference by means of a single motion.

*S.Res. 30, 1/26/93, Mitchell.*

To abolish the requirement that conference reports be read on demand.

**Motion to Proceed****103d Congress**

*S.Res. 25, 1/26/93, Mitchell.*

To limit debate on a motion to proceed to consider a measure made by the Majority Leader to two hours.

**Multiple Provisions****103d Congress**

*S.Res. 32, 1/26/93, Mitchell.*

*S.Res. 37, 1/26/93, Mitchell.*

To

- limit debate on a motion to proceed to consider a measure made by the Majority Leader to two hours,
- require a three-fifths vote to overturn a ruling of the chair on appeal under cloture (two-thirds on measures to change the Rules),
- provide that committee amendments be deemed germane under cloture,
- charge quorum calls under cloture against the time of the Senator asking them,
- establish a procedure under which the Senate can go to conference by means of a single motion,
- abolish the requirement that conference reports be read on demand, and
- establish a motion to prohibit non-relevant amendments to a measure and, under this rule,
  - make "sense of the Senate" amendments non-relevant *per se*, and
  - require a three-fifths vote to overturn a ruling of the Chair on the relevancy of an amendment.

**Post-Cloture Procedure****103d Congress**

*S.Res. 26, 1/26/93, Mitchell.*

To require a three-fifths vote to overturn a ruling of the chair on appeal under cloture.

*S.Res. 27, 1/26/93, Mitchell.*

To provide that committee amendments be deemed germane under cloture.

*S.Res. 28, 1/26/93, Mitchell.*

To charge quorum calls under cloture against the time of the Senator asking them.



**Relevance of Amendments*****103d Congress***

*S.Res. 31, 1/26/93, Mitchell.*

To establish a motion to prohibit non-relevant amendments to a measure, under which "sense of the Senate" amendments would be non-relevant *per se*, and a three-fifths vote would be required to overturn a ruling of the Chair on the relevancy of an amendment.

**SUMMARY OF OPTIONS FOR HOUSE PROCEDURAL REFORM****I. SPECIAL RULES.**

- A. Prohibit closed rules.
- B. Prohibit restrictive rules.
- C. Require 2/3 or other supermajority vote for closed or restrictive rules.
- D. Permit House by vote to strike out restrictive provisions in a special rule.
- E. Require notice for closed or restrictive rules.
- F. Permit closed or restrictive rules only by some mechanism requiring bipartisan agreement.
- G. Protect motion to recommit with instructions, but only if offered by authority of Minority Leader and with notice.
- H. Permit Minority one amendment to a restrictive rule prior to the previous question.

**II. SUSPENSION OF THE RULES.**

- A. Prohibit motions to suspend the rules and pass measures costing over \$50 million, unless waived by 2/3 vote.
- B. Require one day's notice for suspension motions.
- C. Require roll call vote of reporting committee to authorize bringing up a measure on suspension.
- D. Permit certain points of order to be raised against measures on suspension.
- E. Permit suspension motions on additional days or on any day.
- F. Replace suspension of rules by a new procedure for expedited consideration.
- G. Use Calendar Wednesday rather than suspension for routine measures.
- H. Abolish Calendar Wednesday.

**III. INFORMATION.**

- A. For measures not available before consideration, lengthen general debate time or require written executive summaries.
- B. Prohibit final vote on a measure unless copies have been available to Members for at least one day.
- C. Reduce waivers of layover requirements.
- D. Establish layover requirements for text of amendments identified in special rules.
- E. Prohibit bills and joint resolutions containing more than one subject.

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- F. Establish a daily period for leaders to discuss and entertain questions on the projected schedule.

#### IV. DEBATE.

- A. Lengthen time for floor debate, especially for non-members of reporting committees.
- B. Permit one-minute speeches and/or special orders in the course of legislative debate.
- C. Provide longer general debate for measures under closed (or restrictive) rules.
- D. Prohibit revision and extension of remarks in Record.

#### V. SPECIAL ORDER SPEECHES.

- A. Abolish special order speeches (and/or other forms of non-legislative debate) or limit time available for them.
- B. Have special order speeches delivered from off the floor after adjournment.
- C. Charge Members' office accounts for cost of special order speeches.
- D. Use similar combinations of camera views in televising both legislative business and special order speeches.

#### VI. VOTING.

- A. Make greater use of "five-minute" and "clustered" votes.
- B. Permit Members to vote on procedural questions from voting stations in committee.
- C. Make the 15-minute minimum electronic voting period also a maximum.
- D. Require immediate override vote on all vetoed measures.
- E. Require roll call votes on rules changes, pay raises, and/or spending legislation.

#### VII. MOTIONS.

- A. Deem Journal approved daily, subject to proposed amendment within five days.
- B. Prohibit motions to adjourn for the first five hours of floor session.
- C. Prohibit motions to adjourn more than once a day by the same Member.
- D. Limit use of the motion to reconsider.

**VIII. DISCHARGE.**

- A. Make signatures to pending petitions public.
- B. Prohibit superseding discharge procedure by special rule or by committee report of the measure to be discharged.
- C. Lower signature requirement to 145 (1/3 of House).
- D. Permit discharge only of special rules for considering measures.

**IX. PRIVILEGES OF THE HOUSE.**

- A. Prohibit immediate motions to table measures involving privileges of House.
- B. Abolish the new rule permitting consideration of measures involving privileges of House to be put off for two days.

## OPTIONS FOR HOUSE PROCEDURAL REFORM

### GENERALLY APPLICABLE CONSIDERATIONS

- Any prohibition either diminishes the body's flexibility in adapting its action to specific situations, or else is subject to waiver, either by unanimous consent, suspending the rules, special rule (House), or overturning the chair on appeal (Senate). Even a prohibition against waiving the prohibition might itself be waived. Requiring super-majorities for waivers or appeals tends to limit the body's ultimate control over its own proceedings.
- Demands for efficiency in scheduling and for more effective participation often tend to conflict. For example, notice requirements (e.g., layovers) and longer debates encourage participation, but tend to increase delays and time pressures on Members. Layover, reporting, and other requirements designed to improve Members' capacity for informed policy choice are in practice often waived for the sake of expeditiousness. Waiving them tends to defeat their purpose; not waiving them creates delays and obstacles to action.
- Devices that serve Member needs for position taking (public identification with issues through participation in floor debate, promotion of "pet" policy proposals, forcing opponents to go on record, etc.) may not foster either the quality or constructive character of deliberation, or expeditiousness and effectiveness in scheduling.

### I. SPECIAL RULES.

#### A. Prohibit closed rules.

- Does nothing to control other forms of restrictive rule, or such devices as waiver, self-executing and king-of-hill provisions.
- Rules Committee could easily evade intent by reporting tightly restrictive or structured rules instead.
- Might do little to protect and enhance rank-and-file and minority amendment opportunities.

#### B. Prohibit restrictive rules.

- Would tend to increase frequency of less restrictive rules, thereby increasing rank-and-file and minority amendment opportunities.
- Might result in more frequent or repetitive votes on partisan or inflammatory questions.
- Could lead to longer, more complex debates; could make scheduling less predictable.



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- Could lead to poorly structured and confusing decision processes.
  - Could enhance opportunities for dilatory tactics.
  - Could encourage amendments responding to special or local interests, including "pork."
  - Could make it impossible to protect carefully crafted packages against special interest amendments.
  - Would diminish leadership flexibility in scheduling and agenda control, unless prohibitions could be waived, in which case they might have little effect.
  - Might impel leadership to develop alternative means of recovering flexibility.
- C. **Require 2/3 or other supermajority vote for closed or restrictive rules.**
- Similar to previous option, except that it could force Congresses with party majorities less than 2:1 to operate under rigid constraints, and permit those with greater majorities to operate with none at all.
- D. **Permit House by vote to strike out restrictive provisions in a special rule.**
- House might more frequently operate under less restrictive procedures.
  - Rank-and-file temptation to vote against restrictive provisions could erode party discipline on the floor.
  - Might result in more frequent or repetitive votes on partisan or inflammatory questions.
  - Might lengthen procedural debates on special rules; might be used for dilatory purposes.
  - Striking out specific restrictive provisions alone might not result in a coherently crafted structure for debate.
  - Rules Committee might evolve complex ways of formulating restrictions that could not easily be eliminated by striking language.
  - Would entail substantial change from the current operation of the previous question.
- E. **Require notice for closed (or restrictive) rules.**
- Would permit time to build opposition.
  - Might lengthen floor debates over procedure.
  - Might or might not decrease frequency with which restrictive rules were proposed or adopted.
- F. **Permit closed (or restrictive) rules only by some mechanism requiring bipartisan agreement.**
- Radical change toward European-style "steering committee" system.
  - Would retain House procedural flexibility while inhibiting partisan use of such flexibility to favor preferred outcomes.

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- Would not protect opportunities of rank-and-file, as opposed to party, minorities.

**G. Protect motion to recommit with instructions, but only if offered by authority of Minority Leader and with notice.**

- Would formally transfer control of the motion from opponents of the measure to the minority party. On a bipartisan measure, might be used to shut opponents out from a motion to recommit.
- If new procedure applied automatically to measures with committee substitutes, would alter current general practice against re-amending amended text.
- Provision either could be waived, as now, or would diminish flexibility.

**H. Permit Minority one amendment to a restrictive rule prior to the previous question.**

- Allows the House to consider an alternative procedure for debating and amending legislation in the Committee of the whole.
- Insures debate on a Minority-sponsored proposal that might not otherwise receive consideration by the House.

**II. SUSPENSION OF THE RULES.**

**A. Prohibit motions to suspend the rules and pass measures costing over \$50 million, unless waived by 2/3 vote.**

- Any measure that could obtain the 2/3 required to pass on suspension could presumably command the 2/3 necessary for the waiver.
- House would retain current flexibility in scheduling, but at risk of additional extra roll call votes.
- Current Democratic Caucus rules impose a similar, though not mandatory, standard of \$100 million.
- Existing requirement for 2/3 vote already gives House substantial protection against passing inappropriate measures on suspension.

**B. Require one day's notice for suspension motions.**

- To expedite business, the House might often be willing to waive any such notice requirement. Attempts to enforce it might then come to be viewed as obstructive, raising pressure to abolish the requirement. A former similar requirement was abandoned for such reasons.
- A motion to suspend the rules could be held to suspend any such requirement of the rules.
- Existing requirement for 2/3 vote already gives House substantial protection against passing inappropriate measures on suspension.

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- C. **Require roll call vote of reporting committee to authorize bringing up a measure on suspension.**
  - Might be held to alter long established principle that committee's vote to report a measure obligates chair to seek its consideration by any appropriate means.
  - Existing requirement for 2/3 vote already gives House substantial protection against passing inappropriate measures on suspension.
- D. **Permit certain points of order to be raised against measures on suspension.**
  - Would require altering present concept that to "suspend rules" implies waiver of any applicable points of order.
  - Existing requirement for 2/3 vote already gives House substantial protection against passing inappropriate measures on suspension.
- E. **Permit suspension motions on additional days or on any day.**
  - Would increase flexibility and decrease predictability in scheduling.
  - Might enhance effective use of time by permitting major measures to be taken up on Monday and Tuesday.
  - Could foster increased reliance on suspension procedure.
- F. **Replace suspension of rules by a new procedure for expedited consideration.**
  - Could be made to require such safeguards as a supermajority vote, advance notice, or a committee report.
  - Could be designed to permit points of order and perhaps amendments.
  - Motions to suspend rules could be reserved for waivers of such requirements.
  - Could control the aspects of suspension practice addressed in previous options while retaining House flexibility to waive them.
    - Radical alternative not at present advanced by any participants in reform process.
- G. **Use Calendar Wednesday rather than suspension for routine measures.**
  - Calendar Wednesday designed for routine use; ill adapted to emergency use only.
  - Permits amendments and points of order; requires a committee report.
  - Requires no supermajority vote.
  - Agenda control for this procedure lies with Committees, not leadership.
- H. **Abolish Calendar Wednesday.**
  - Step toward rules simplification.
  - Has not been used routinely, as designed, for 60 years.

- Has not been used as emergency procedure for about 30 years; cumbersome and ineffective for this purpose.
- Not likely to be revived unless situations of ongoing conflict between leadership and committee chairs develop.
- Could be replaced by a more effectual procedure for consideration of secondary and routine legislation.

### III. INFORMATION.

#### A. For measures not available before consideration, lengthen general debate time or require written executive summaries.

- Especially if used to enhance Member opportunities for position taking, longer debate would not necessarily effectively enhance Member capacity for informed choice.
- If used for informational purposes, additional time could help restore deliberative usefulness of debate, and thereby also improve floor attendance.
- Could increase Member time pressures.
- Practical pressures could result in frequent waiver.
- Could be accomplished without change in House rules.
- Informational purposes might also be achieved by reducing waivers of existing information requirements, such as reading, layover, and report availability, and by enhanced attention to usefulness of current committee reports.

#### B. Prohibit final vote on a measure unless copies have been available to Members for at least one day.

- Could improve scheduling predictability and Member capacity for informed choice.
- Could increase delays, especially for measures considered at the end of a week if Mondays are to be kept free of votes.
- Intended to protect same Member interests in adequate information as requirements for reading, for layovers, and for committee reports, all of which are often waived.
- Some of the same benefits to Member information levels might be achieved by improved floor attendance and reduced "fragmentation" of Member attention.
- Intent could be vitiated by frequent waiver.

#### C. Reduce waivers of layover requirements.

- Could increase informed Member choice.
- Could reduce leadership ability to use scheduling flexibility to political advantage.
- Hard to enforce by rule; would require political will to change practice.

**Establish layover requirements for text of amendments identified in special rules.**

- Would tend to improve Member capacity for informed choice.
- Might be subject to frequent demands for waiver.
- If not treated as waivable, could limit House scheduling flexibility.

**Prohibit bills and joint resolutions containing more than one subject.**

- Would limit leadership use of omnibus measures to structure voting options.
- Defining what constitutes "one subject" could be problematic, though precedents from germaneness and discharge rules could help.

**Establish a daily period for leaders to discuss and entertain questions on the projected schedule.**

- Similar to current Senate practice.
- Could probably be implemented without House rule changes.
- Could become a focus for procedural disputes.

**DEBATE.**

**Lengthen time for floor debate, especially for non-members of reporting committees.**

- Could provide opportunity for non-members of committee to engage in colloquies with committee leaders.
- If still structured as now, longer debate might still be controlled by committee members.
- Could be accomplished without changing House rules.
- Could help satisfy Member demand for more effective opportunities for participation and position taking.
- Longer debate will not automatically be more meaningful or informative, especially if used for position taking only.
- Making the debate more meaningful might require permitting managers to structure it.
- Managers might view broader participation in debate as threat to committee control, and not offer adequate portions of increased time to non-members of committee.
- To achieve desired results, longer debates might have to be accompanied by changes in practice by managers, as well as by leadership and by participants.
- Longer debates could mean increased time demands on Members.



- B. **Permit one-minute speeches and/or special orders in the course of legislative debate.**
- Would facilitate debate participation by non-members of committees.
  - Could lead to longer and less structured debates.
  - Could be used for dilatory purposes.
  - Purpose might be achieved by innovative methods of allocating managed time in general debate.
- C. **Provide longer general debate for measures under closed (or restrictive) rules.**
- Would not require House rule changes; might be hard to enforce by House rule.
  - Could improve opportunities, especially for non-members of reporting committee, for position taking on such measures.
  - Could improve opportunities for Members to make informed choices on such measures.
  - Debate may not adequately substitute for opportunity to amend.
- D. **Prohibit revision and extension of remarks in Record.**
- Would make Record more nearly verbatim.
  - Could result in occasional embarrassment to Members from unedited remarks.
  - Might reduce usefulness of Record for communication among Members and with public.
  - Members might demand new ways to achieve equivalent results.
  - Could result in reduction in expense.
- V. **SPECIAL ORDER SPEECHES.**
- A. **Abolish special order speeches (and/or other forms of non-legislative debate) or limit time available for them.**
- Further limits opportunities available for Member position taking.
  - Moves in opposite direction from suggestions to permit broader participation in legislative debate.
  - Savings in Member time and House expense might be considered marginal.
  - Could be achieved under present rules by denying consent for such remarks and by motions to adjourn.
  - Could conflict with proposals for "Oxford style" debates.

- B. **Have special order speeches delivered from off the floor after adjournment.**
  - Might not secure national television coverage.
  - Would further reduce potential for actual debate among Members.
  - Might not save money.
- C. **Charge Members' office accounts for cost of special order speeches.**
  - Might tend to reduce (and balance) extent of such speaking.
  - Would likely lead to demands to publish Members' total charges for special orders.
  - Controversy possible over means of calculating "cost."
- D. **Use similar combinations of camera views in televising both legislative business and special order speeches.**
  - Might enable viewers to evaluate legislative and non-legislative floor activities in similar contexts.
  - Could reveal low attendance during legislative consideration.
  - Could avoid revealing low attendance during special orders.

## VI. VOTING

- A. **Make greater use of "five-minute" and "clustered" votes.**
  - Could improve efficiency in scheduling and save Members' time.
  - Might reduce dilatory possibilities.
  - Might further discourage floor attendance and participation.
- B. **Permit Members to vote on procedural questions from voting stations in committee.**
  - Would reduce effectiveness of a possible dilatory tactic.
  - Could marginally reduce "fragmentation" of Members' time and disruption of committee by floor proceedings.
  - Could be considered radical step toward proxy voting on floor.
  - Could reduce incentives for floor attendance.
  - Would tend further to separate deliberation from voting.
- C. **Make the 15-minute minimum electronic voting period also a maximum.**
  - Could improve efficiency and reduce dilatory possibilities.
  - Might increase time pressure on Members.
  - Could diminish leadership control over House policy decisions.

- D. **Require immediate override vote on all vetoed measures.**
  - Could enhance Member accountability and opportunities for position taking, including putting opponents on record.
  - Would diminish leadership agenda flexibility and control and could occasion scheduling delays and disruptions.
- E. **Require roll call votes on rules changes, pay raises, and/or spending legislation.**
  - Implies that constitutional ability of 1/5 of a quorum to obtain a roll call is insufficient protection.
  - Tends to establish procedural preference for specified policy outcomes rather than leaving policy choice to political decision.
    - Could increase delays and time pressures on Members.

## VII. MOTIONS.

- A. **Deem Journal approved daily, subject to proposed amendment within five days.**
  - Would eliminate a device the Minority has sometimes used as an attendance check.
  - Minority developed this device in response to rules making it hard for them to obtain a quorum call. Its elimination might stimulate their development of some other equivalent device.
  - If motion to amend Journal is feasible in practice, it could be used for dilatory purposes.
  - If not, the House could lose control over one constitutional means of asserting ultimate control over its own proceedings.
  - In early 1980s, the Senate moved away from a system similar to that proposed, to one more like the House now uses.
- B. **Prohibit motions to adjourn for the first five hours of floor session.**
  - Could prevent leadership from adjourning briefly to create a new legislative day.
  - By reversing the canonical parliamentary principle that a motion to adjourn is always in order, could result in the House being forced to remain in session against its will.
  - If waivable, might have the effect only of placing control of adjournment entirely in leadership hands.
- C. **Prohibit motions to adjourn more than once a day by the same Member.**
  - Might have little effect if a colleague could make the motion instead.

**D. Limit use of the motion to reconsider.**

- Could reduce dilatory possibilities of a motion seldom used today for its original purpose.
- A special rule could still permit such a motion in cases where considered desirable, so that control of reconsideration would pass from the membership to majority party leadership.

**VII. DISCHARGE.****A. Make signatures to pending petitions public.**

- Would foster Member accountability to attentive publics.
- Would increase Member vulnerability to special interest pressure, reversing the rationale that led to the present rule's adoption.
- Could foster use of discharge petitions for position taking.

**B. Prohibit superseding discharge procedure by special rule or by committee report of the measure to be discharged.**

- Might prevent majority party leadership from recovering control of floor agenda in a discharge situation.
- Could make it harder to adapt procedure on the measure to circumstances at the time of consideration.

**C. Lower signature requirement to 145 (1/3 of House).**

- Would offer minority party a workable procedure for securing floor consideration for their proposals on their agenda.
- Original 1931 rule that required 1/3 of House was changed to 1/2 in 1935 because too many measures were being discharged and defeated.
- Could enhance opportunities only for position taking and not for actual legislating.

**D. Permit discharge only of special rules for considering measures.**

- Would prevent committees from vitiating discharge procedure by reporting.
- Would encourage considering discharged measures under specifically crafted appropriate procedures.
- Would not restrain Rules Committee from proposing alternative special rules.

**IX. PRIVILEGES OF THE HOUSE.****A. Prohibit immediate motions to table measures involving privileges of House.**

- Would enhance individual Member ability to affect floor agenda.
- Would diminish ability of majority to control floor agenda and schedule.
- Would eliminate a possible counter to a possible dilatory tactic.
- House can now prevent such action by defeating motion to table.

**B. Abolish the new rule permitting consideration of measures involving privileges of House to be put off for two days.**

- Putting off some of these questions may destroy their timeliness and relevance.
- Might conflict with other proposed actions enhancing notice requirements.
- House is often willing to waive notice requirements to expedite action.



The Joint Committee on the Organization of Congress  
Database of Positional Statements

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## ISSUE AREA 4: HOUSE PROCEDURES

### List of Options Proposed

- |   |  |
|---|--|
| 1. Limit/Prohibit Restrictive Rules                             | 6. Protect Three-Day Layover Requirement for Filing Views on and/or Reviewing Committee Report |
| 2. Permit Amendments to Special Rules                           |  |
| 3. Protect Motion to Recommit with Instructions                 | 7. Abolish/Reform Special Order Speeches   |
| 4. Limit Suspension of the Rules                                | 8. Reform Voting Procedure Process   |
| 5. Ensure Timely Availability of Reports, Bills, and Amendments | 9. Make Signatures to Pending Discharge Petitions Public                                       |
|   | 10. Miscellaneous Comments   |

## HOUSE PROCEDURES:

### 1. Limit/Prohibit Restrictive Rules

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Representative Foley	1/26, 16	Defends the use of restrictive rules
	Sinclair, Barbara - University of California	5/20, 95	Limit of special rules would make policy making more difficult
For	Frenzel, Bill - Former Representative	1/28, 14	
	Mason, David - Heritage Foundation	2/16, 38	Give Rules a range of "preexisting rules" they could adopt – pre-fabricated rules; 2/16, pp. 50-51
	Representative Bliley	5/13, 1075	
	Representative Burton	6/16, 22	
	Representative Buyer	6/16, 228	Require 3/5 vote to waive any rule and 3/5 vote to pass a rule on floor
	Representative Crapo	2/4, 82	
	Representative Diaz-Balart	5/20, 88-89	Believes members should be allowed to offer amendments. Agrees on debate time limit
	Representative Dingell	4/24, 185	
	Representative Doolittle	2/4, 63, 175	Require a 2/3 vote on self-executing rules; 2/4, p. 175
	Representative Dreier	1/26, 15-6	Believes more open rules necessary to allow others to offer amendments on floor; 5/20 p. 75-80
	Representative Dunn	5/20, 82	
	Representative Fowler	4/1, 25	Require 2/3 vote to bring a closed rule to the floor
	Representative Gilchrest	6/16, 26	Require 3/5 vote for closed rule or allow limited number of amendments
	Representative Hastert	2/4, 239	
	Representative Kim	2/4, 94	
	Representative LaFalce	5/4, 238	Must try to seek balance between efficiency and openness

Proposal: Limit/Prohibit Restrictive Rules

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Representative Linder	2/4, 95	
	Representative Michel	3/30, 4	Admits some situations merit special rules, yet calls for "a complete overhaul" of Rules; 1/26, pp. 33-34
	Representative Miller, George	4/22, 112	
	Representative Moorhead	5/11, 342	
	Representative Pryce	5/20, 90	
	Representative Quinn	2/4, 188	
	Representative Solomon	4/29, 175-176	
	Representative Torkildsen	4/1, 25	
	Representative Walker	5/20, 66	
	Robinson, Pete - Former Assistant House Parliamentarian	5/18, 42	
	Schatz, Tom - Citizens Against Government Waste	6/29, 89	
	Senator Lott	5/20, 71	
See Note	Representative Emerson	1/26, 17	Calls for a balance between efficiency and fairness
	Representative Gephardt	1/26, 31, 44	Time-restraints effected by Rules aids scheduling, thus "We should support" Rules
	Representative Swift	5/11, 345	Notes that Majority and Minority are caught in a war over the rules; calls for end to abuses from both sides
	Representative Fingerhut	4/1, 79	Allow extended debate if closed rules
	Representative Shepherd	4/1, 79	Allow extended debate if closed rules
	Democratic Freshman Representatives	4/1, 79	Allow extended debate if closed rules

Proposal: Permit Amendments to Special Rules

## HOUSE PROCEDURES:

### 2. Permit Amendments to Special Rules

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Representative Dreier	5/20, 80	Would allow minority 1 amendment to restrictive rule before the previous question is ordered
	Representative Emerson	4/22, 117	Give Minority a certain number of amendments they can offer.

## HOUSE PROCEDURES:

### 3. Protect Motion to Recommit with Instructions

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Mann, Thomas - The Brookings Institution	2/16, 51	
	Representative Doolittle	2/4, 175	
	Representative Dreier	5/20, 203	
	Representative Hefley	2/4, 133	
	Representative Michel	1/26, 34	
	Representative Moakley	5/20, 61-62	Must be offered by Minority leader or designee, Speaker has power to postpone debate and votes for two hours
	Representative Walker	5/20, 67	
	Robinson, Pete, Former Assist. House Parliamentarian	5/18, 42	Majority should be guaranteed notice of motion to recommit
	Smith, Steve, University of Minnesota	5/20, 97	Require Minority Leader or designee; amendments need to be published at least one day in advance



## HOUSE PROCEDURES:

### 4. Limit Suspension of the Rules

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Mann, Thomas - The Brookings Institution	2/16, 105	
	Ornstein, Norm - American Enterprise Institute	2/16, 105	
	Robinson, Pete - Former Assistant House Parliamentarian	5/18, 42	
See Note	Representative Crapo	2/4, 81	Wants to restrict nongermane amendments allowed through suspension of rules

Proposal: Ensure Timely Availability of Reports, Bills, and Amendments

## HOUSE PROCEDURES:

### 5. Ensure Timely Availability of Reports, Bills, and Amendments

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Democratic Freshmen	4/1, 79	
	Representative Castle	2/4, 17-18	
	Representative Goss	2/4, 145	
	Representative Hamilton	5/20, 70	
	Representative Zeff	2/4, 88	
	Senator Graham	5/13, 383	
	Senator Nunn	6/29, 132	
	Sinclair, Barbara - University of California	5/20, 106	
	Smith, Steve - University of Minnesota	5/20, 97	

Proposal: Protect Three-Day Layover Requirement ...

# HOUSE PROCEDURES:

## 6. Protect Three-Day Layover Requirement for Filing Views on and/or Reviewing Committee Report

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Brown, William Holmes - House Parliamentarian	5/18, 13	
	Representative Allard	6/16, 64	
	Representative Burton	6/16, 23	
	Representative Dreier	5/20, 80	Believes the three day layover should not be waived on larger bills
	Representative Kim	2/4, 94	
	Representative Solomon	4/29, 174	
	Republican Leadership Task Force	4/29, 584	
	Schatz, Tom - Citizens Against Government Waste	6/29, 89	
	Smith, Steve - University of Minnesota	5/20, 97	
See Note	Representative Moakley	5/20, 62	Would change how the three day requirement is calculated

Proposal: Abolish/Reform Special Order Speeches

## HOUSE PROCEDURES: 7. Abolish/Reform Special Order Speeches

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
See Note	Representative Emerson	4/22, 117	Leave special orders alone
	Representative Hoyer	5/25, 278	Recognizes "right" to have special orders, but House shouldn't remain in session late into the night just because of one Member

Proposal: Reform Voting Procedure Process

**HOUSE PROCEDURES:**  
**8. Reform Voting Procedure Process**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
See Note	Mason, David, Heritage Foundation	2/16, 171	*Approving legislation or amendments without votes ('deeming') should be prohibited.*



Proposal: Make Signatures to Pending Discharge Petitions Public

## HOUSE PROCEDURES:

### 9. Make Signatures to Pending Discharge Petitions Public

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Omstein, Norman - American Enterprise Institute	4/20, 61	
For	Mason, David - Heritage Foundation	2/16, 72	
	Representative Allard	5/20, 72	
	Representative Dreier	2/16, 72-73	
	Representative Fowler	4/1, 26	
	Representative Torkildsen	4/1, 26	

Proposal: Miscellaneous Comments

## HOUSE PROCEDURES:

### 10. Miscellaneous Comments

NAME OF WITNESS	MISCELLANEOUS COMMENTS
Brown, William Holmes - House Parliamentarian	Rule 10 contains ambiguities that should be changed; 5/20, p. 1-3
Mason, David - Heritage Foundation	Views the practice of omnibus legislation as "a big problem" -- an ominous trend; 2/16, p. 36; have initial debate on legislation on 1st reading under a 1 hour rule; 2/16, p. 39
Representative Buyer	Would change ratio of members on Rules Committee to reflect ratio of Congress; 6/16, p. 35
Representative Doolittle	"We ought to seriously consider requiring Members to be present for debate"; 2/4, p. 63
Representative Slattery	Proposes four year terms for Representatives; 6/16, p. 28
Senator Craig	Believes House should allow relevant amendments to policy decisions that may not be strictly germane; 6/29, p. 299

## SUMMARY OF OPTIONS FOR SENATE PROCEDURAL REFORM

## I. CLOTURE.

- A. Reduce (e.g., by one, three, or five) the vote required for cloture on each successive cloture vote; require two days between votes.
- B. Reduce the vote required for cloture as the extent of amending activity or of time spent in consideration increases.
- C. Alternatively, apply declining requirements for cloture only when ten Senators demand delay of a measure while the Senate considers other business; require full 60 votes only to stop filibusters of a measure actually on the floor ("two-class filibuster" proposal).
- D. Charge time spent on a quorum call under cloture against the hour allotted to the Senator demanding the quorum call.

## II. AMENDMENTS UNDER CLOTURE.

- A. Require the same majority to overturn a germaneness ruling under cloture as to invoke cloture (3/5 on most measures).
- B. Deem committee amendments germane under cloture. Alternatively, require not germaneness, but relevance, for amendments under cloture.
- C. Establish separate pre-filing deadlines in the cloture rule for full text substitutes and first-degree amendments.
- D. Prohibit cloture on an amendment.

## III. MOTION TO PROCEED.

- A. Limit debate (e.g., to two hours) on the motion to proceed.
- B. Permit a leadership nondebatable motion to proceed only for measures on a Senate agenda adopted by resolution.
- C. Make cloture on a motion to proceed easier to invoke and stricter in application.
- D. Permit a motion to set a specific time limit on debate of a pending motion to proceed.
- E. Establish additional sets of terms for consideration, and permit a new motion to proceed to consider a measure under any of those terms.
- F. Permit the present motion to proceed to specify terms of consideration.
- G. Use the present motion to suspend the rules to call up measures and specify terms for their consideration.

## IV. HOLDS.

- A. Have leaders impose limits on the length of time that holds may remain in effect.

- B. Require several Senators (e.g., five or 16) for placing a hold.
- C. Require names of Senators requesting holds to be available.

#### V. AMENDMENTS.

- A. Prohibit non-germane (or non-relevant) amendments.
- B. Permit the Senate by vote (perhaps requiring a supermajority) to exclude non-relevant amendments to a specific measure.
- C. Require measures to be read by title (or section) for amendment.
- D. Allow a motion to read a measure by section for amendment only when a relevance (or germaneness) requirement is in effect.
- E. Permit a simple majority by nondebatable motion to limit debate and require amendments to be relevant and offered by title ("straight-track" consideration); establish corresponding motion to return to present procedure.
- F. Permit amendments not pre-filed to be offered only by a supermajority vote.
- G. Permit the chair to rule on the germaneness of legislative amendments to appropriation bills.
- H. Prohibit repetitive votes on same subject in a single session; require a supermajority vote to waive.
- I. Prohibit Sense of the Senate amendments unless the amendment is signed by at least twenty Senators.

#### VI. QUORUM AND VOTING.

- A. Enforce quorum requirements.
- B. Use more frequent recesses, instead of quorum calls, for constructive delay.
- C. Strictly enforce the constitutional requirement that one-fifth of a quorum second a demand for a roll call vote.
- D. Establish in rule the 15-minute time limit on roll call votes.
- E. Establish electronic voting system.

#### VII. OTHER.

- A. Permit Senate to go to conference with a single motion.
- B. Abolish the requirement that conference reports be read on demand.
- C. Require germaneness in debate at all times, and prohibit the reading of speeches.
- D. Establish a separate period for general debate on measures.
- E. Improve observance of rules by providing for a procedurally expert non-Member as permanent Presiding Officer.
- F. Restore use of Calendar Call for passing routine measures.
- G. Place resolutions not immediately considered or referred on the Calendar of General Orders.

## OPTIONS FOR SENATE PROCEDURAL REFORM

### GENERAL CONSIDERATIONS

- Any prohibition either diminishes the body's flexibility in adapting its action to specific situations, or else is subject to waiver, either by unanimous consent, suspending the rules, special rule (House), or overturning the chair on appeal (Senate). Even a prohibition against waiving the prohibition might itself be waived. Requiring super-majorities for waivers or appeals tends to limit the body's ultimate control over its own proceedings.
- Demands for efficiency in scheduling and for more effective participation often tend to conflict. For example, notice requirements (e.g., layovers) and longer debates encourage participation, but tend to increase delays and time pressures on Members. Layover, reporting, and other requirements designed to improve Members' capacity for informed policy choice are in practice often waived for the sake of expeditiousness. Waiving them tends to defeat their purpose; not waiving them creates delays and obstacles to action.
- Devices that serve Member needs for position taking (public identification with issues through participation in floor debate, promotion of "pet" policy proposals, forcing opponents to go on record, etc.) may not foster either the quality or constructive character of deliberation, or expeditiousness and effectiveness in scheduling.

#### I. CLOTURE.

- A. Reduce (e.g., by one, three, or five) the vote required for cloture on each successive cloture vote; require two days between votes.
- Would ensure that a majority could ultimately terminate debate.
  - Might still sometimes require substantial delay before a disposition could be reached.
  - Could encourage early and multiple cloture votes.
  - Elapsed calendar time required before cloture votes would not ensure that opportunity for actual debate or substantive amendment would be afforded.
  - Since the 1975 adoption of a 3/5 requirement for cloture on most measures, cloture has been effective on more measures than not, and the Senate has given little indication of desiring further changes in the majority required for cloture.



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- Any sure way of terminating filibusters will substantially enhance leadership power to ensure Senate vote on matters of its choice.
- B. **Reduce the vote required for cloture as the extent of amending activity or of time spent in consideration increases.**
- Would go farther than previous alternative in protecting opponents' opportunities for debate and amendment, so that attempts to achieve cloture might absorb significant amounts of actual Senate floor time.
  - Other implications would be similar to previous alternative.
- C. **Alternatively, apply declining requirements for cloture only when ten Senators demand delay of a measure while the Senate considers other business; require full 60 votes only to stop filibusters of a measure actually on the floor ("two-class filibuster" proposal).**
- Filibuster by demanding delay ("Class II") would permit minority to be heard but not to exercise absolute veto over Senate action.
  - Burden of overcoming a ("Class I") filibuster by floor debate rests on proponents of legislation, who must maintain a quorum.
  - Distinction between two Classes depends on leadership willingness to delay other business to force "Class I" filibusterers to retain the floor.
  - Current incentives to permit "Class I" filibuster to proceed by off-floor delay would remain unchanged.
  - Senators conducting a "Class II" filibuster would have incentive to switch to "Class I" whenever they thought cloture likely.
  - "Class II" filibuster by demand would in effect constitute a new form of "hold" (see "Holds").
- D. **Charge time spent on a quorum call under cloture against the hour allotted to the Senator demanding the quorum call.**
- Would further inhibit post-cloture filibusters by discouraging a possible dilatory tactic.
  - Could interfere with use of quorum calls to accommodate constructive negotiations or individual Senators' schedules.
  - Departure from any previous Senate practice on control of time.

## II. AMENDMENTS UNDER CLOTURE.

### A. Require the same majority to overturn a germaneness ruling under cloture as to invoke cloture (3/5 on most measures).

- Under present rules, a Senator might force consideration of any proposal under a time limit, by offering it as an amendment to some measure under cloture, then appealing a ruling of non-germaneness.
- If such a strategy became common, Senators might oppose cloture so as to reduce the threat of having to consider an unrelated measure under a time limit.
- Requiring a supermajority to reverse the chair detracts from the body's ultimate authority to control its own proceedings.

### B. Deem committee amendments germane under cloture.

- Would prevent the Senate's very restrictive definition of germaneness from precluding committee amendments.
- Would remove a potential obstacle to obtaining cloture by helping to maintain committee control of a measure under cloture.
- Could foster nongermane and non-relevant committee amendments.

### C. Alternatively, require not germaneness, but relevance, for amendments under cloture.

- Standard of relevance is frequently used in time agreements today.
- Would help maintain committee control of a measure under cloture.

### D. Establish separate pre-filing deadlines in the cloture rule for full text substitutes and first-degree amendments.

- Present rule, giving full substitutes and first-degree amendments the same deadline, may preclude first-degree amendments to substitutes under cloture.

### E. Prohibit cloture on an amendment.

- Current practice permits groups of Senators to secure consideration of any proposal, and time limits on its consideration, by offering it as a (possibly non-relevant) amendment and seeking cloture on it. Cloture makes the matter concerned the exclusive business of the Senate until disposed of.
- Could make it impossible to overcome a filibuster on certain committee substitutes unless rule contained an exception for

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substitute amendments or committee substitutes were deemed per se germane (or relevant).

- Could eliminate a significant means by which individual Senators can take control of floor agenda from leadership.
- Could make it impossible for leadership to secure consideration of a matter as a nongermane amendment rather than through a motion to proceed.

### III. MOTION TO PROCEED.

#### A. Limit debate (e.g., to two hours) on the motion to proceed.

- Could effectively abolish Senators' ability to enforce a "hold" on a measure by filibustering the motion to proceed.
- Might encourage Senators to contest leadership prerogatives to control the floor agenda by offering motions to proceed themselves.
- Would greatly enhance leadership control over the floor agenda by ensuring a vote on consideration of any measure.
- Would effectively eliminate power of a Senate party or other minority to obtain acceptable terms for considering any measure, or acceptable modifications in its content, in return for permitting a vote on the motion to proceed.
- Would thereby undercut a key incentive for the leadership to seek accommodations, and a key means for individual Senators to affect floor proceedings.
- To provide for debate limitation only on leadership motions to proceed would formalize leadership managerial power in the Senate to an unprecedented degree.

#### B. Permit a leadership nondebatable motion to proceed only for measures on a Senate agenda adopted by resolution.

- Would likely increase ability of leadership to secure consideration of key elements of Majority's program.
- Content of agenda resolution would still be subject to possible filibuster, amendment, and accommodation.
- Would leave ultimate control over extent of nondebatable motion to proceed in hands of full Senate.
- See discussion in Scheduling Options paper.

#### C. Make cloture on a motion to proceed easier to invoke and stricter in application.

- Could include, e.g., permitting a majority to invoke, with no layover period for the motion and a two hour cap on consideration under cloture.
- Highly consistent with recent practice.

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- Could improve Senate use of time by preventing filibusters on motions to proceed.
  - Overcoming opposition to considering a measure would still require a supermajority.
- E. **Permit a motion to set a specific time limit on debate of a pending motion to proceed.**
- Dilatory use could be inhibited by limiting how often it could be offered.
  - Might represent a less radical reduction of Senators' existing prerogatives than would a general limitation of debate.
- F. **Establish additional sets of terms for consideration, and permit a new motion to proceed to consider a measure under any of those terms.**
- Motion could be formulated so as to require notice to offer, limited debate, and/or a supermajority to adopt.
  - Could permit the Senate some flexibility to set terms for consideration by vote that can now be reached only by unanimous consent. Today, the only terms the Senate can invoke by vote are those mandated under cloture.
- G. **Permit the present motion to proceed to specify terms of consideration.**
- Would give a voting majority broad control of terms of consideration.
  - Would substantially reduce incentives for present Senate practices of accommodation with voting minorities.
  - Would permit more flexibility in terms of consideration than the above options.
- H. **Use the present motion to suspend the rules to call up measures and specify terms for their consideration.**
- Might be possible to implement without change in Senate rules.
  - Motion requires one day's notice, is debatable, and requires a 2/3 vote to adopt.
  - Could permit the Senate by vote to set terms for consideration that it can now reach only by unanimous consent.
  - Would provide more flexibility in terms of consideration than the present motion to proceed, but would retain the ability of a voting minority to control those terms.
  - Could be used in conjunction with other options, such as limiting debate on motions to proceed that do not set terms for consideration.



IV. **HOLDS.**A. **Have leaders impose limits on the length of time that holds may remain in effect.**

- Not clear how restrictions could be effectively enforced without change in present motion to proceed and cloture rule.
- Holds are not now explicitly regulated by Senate rules.
- Enforcement of any restriction rests on leadership willingness to incur risk that Senators with a hold will filibuster.
- Leaders' announcements that holds would not absolutely be honored have made little difference to practice.

B. **Require several Senators (e.g., five or 16) for placing a hold.**

- Would formalize the practice of "holds" in Senate rules.
- Individual Senators could still enforce "holds" as long as they can threaten to filibuster measure or motion to proceed.

C. **Require names of Senators requesting holds to be available.**

- Would permit affected Senators opportunity to work out difficulties motivating the holds.
- Might reduce use of third-party or "rolling" holds.
- Would not alter ability of Senators to retain holds by using current rules on cloture and motion to proceed.

V. **AMENDMENTS.**A. **Prohibit non-germane (or non-relevant) amendments.**

- If germaneness standard is adopted, strict Senate standard could rule out many relevant amendments.
- Either prohibition could severely limit long-standing prerogatives of Senators in the amendment process.
- Relevance standard has recently been developed through frequent use in unanimous consent agreements.

B. **Permit the Senate by vote (perhaps requiring a supermajority) to exclude non-relevant amendments to a specific measure.**

- Senate can achieve similar results today, but only by invoking cloture.
- As opposed to a blanket prohibition, an optional restriction (especially with a supermajority vote) preserves flexibility in a way arguably more harmonious with Senate traditions.
- Making the motion in order only twice in a calendar day and limiting debate on it would reduce its potential for dilatory use.



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- Requiring a 3/5 vote to overturn rulings on relevancy under this rule would inhibit attempts to evade it to achieve substantive purposes.
- Establishing that Sense of the Senate provisions are not per se relevant would tend to restrict their offering.

C. **Require measures to be read by title (or section) for amendment.**

- Might provide more predictability in considering measures.
- Might lead to more frequent quorum calls and other delays to accommodate individual Senators' opportunity to offer amendments; otherwise, would increase time pressures on Senators.
- Could prevent the offering of amendments to the last portion of a measure considered under a time limit, unless standard terms of time agreements are also altered.
- In the absence of a requirement of germaneness or relevance, could lead Senators to offer amendments drafted to other portions of a measure as nongermane amendments to whatever section was pending.

D. **Allow a motion to read a measure by section for amendment only when a relevance (or germaneness) requirement is in effect.**

- Effects similar to previous option except for the last point noted.

E. **Permit a simple majority by nondebatable motion to limit debate and require amendments to be relevant and offered by title ("straight-track" consideration); establish corresponding motion to return to present procedure.**

- Rule could fix length of general debate, debate on each amendment, and debate on procedural matters.
- Rule could permit simple majority to apply requirement for amendment by title to a committee substitute.
- Would permit Senate to consider most legislation in a more controlled and predictable setting.
- Moving to "straight track" would not extinguish Senators' current rights to amendment or having views heard.
- Would prevent neither seeking cloture nor modifying standard procedure by unanimous consent.
- Would reduce obstruction to routine debate and amending activity.
- Amendment by title could increase pressure for quorum calls to accommodate individual Senators' arrival.

F. **Permit amendments not pre-filed to be offered only by a supermajority vote.**

- Might help ensure that Senators can cast informed votes.

- Might diminish Senate's capacity to arrive at and adopt workable policy syntheses in the course of floor consideration.
- Might be used by a minority to defeat proposals they objected to.
- Could foster delays resulting from attempts to postpone consideration until pre-filing requirements were met.

**G. Permit the chair to rule on the germaneness of legislative amendments to appropriation bills.**

- Legislative amendments to appropriation bills are supposed to be permitted only when germane to legislative language already in the bill.
- Change could inhibit the now common Senate practice of voting such amendments germane whenever the Senate wishes to consider them.
- Recent precedents already establish some limitations on that practice.
- Change would not prevent Senators from achieving the same result by appealing the rulings made by the chair.

**H. Prohibit repetitive votes on same subject in a single session; require a supermajority vote to waive.**

- Appropriate definition of "same subject" could be difficult to arrive at.
- Could keep from the floor proposals with little change of passage.
- Might be used to keep proposals from the floor for policy reasons.
- Might complicate Senate action to repass measures in new forms for convenience in resolving either interchamber differences, or interbranch differences in veto situations.
- Might be less necessary if rule of germaneness or relevance is adopted.
- Especially if waiver required a supermajority, could restrict Senate flexibility in agenda and responsiveness to changed circumstances.
- Might be subject to frequent waiver, especially if no supermajority was required.

**I. Prohibit Sense of the Senate amendments unless the amendment is signed by at least 20 Senators.**

- Could save the Senate's time and expedite its floor business.
- Helps to insure that when these resolutions are subject to debate that a rather significant segment of the Senate supports their time consideration.
- May limit the ability of Senators to raise and debate important issues in a timely manner.

**VI. QUORUM AND VOTING.****A. Enforce quorum requirements.**

- Could promote attendance and genuine deliberation.
- Could be used for dilatory purposes.
- Might be hard to implement and often waived for accommodative purposes.

**B. Use more frequent recesses, instead of quorum calls, for constructive delay.**

- Might not ameliorate basic problem of delay to accommodate individual Senators.
- Recesses might not improve Senate television image over quorum calls.

**C. Strictly enforce the constitutional requirement that one-fifth of a quorum second a demand for a roll call vote.**

- Might often make roll call votes hard to obtain.
- Would not reduce present pressures to accommodate individual Senators by interpreting requirement loosely.

**D. Establish in rule the 15-minute time limit on roll call votes.**

- Might not reduce pressures to accommodate absent Senators wishing to vote.
- If rule could not be waived, would increase time pressures on Senators.
- Could reduce majority party leadership control over policy outcomes.

**E. Establish electronic voting system.**

- Under present conditions of floor attendance, might save little time.
- Could foster increased demands for recorded votes.

**VII. OTHER.****A. Permit Senate to go to conference with a single motion.**

- Current procedure requires three actions: to disagree, to ask or accept a conference, and to permit chair to appoint conferees.
- Change would reduce possibility of multiple filibusters against a measure in the course of going to conference.
- In practice, Senate has seldom yet conducted filibusters on all these actions, or even on any of them.

- B. Abolish the requirement that conference reports be read on demand.**
- Would eliminate use of this requirement for purposes of delay.
  - Reading of conference report provides little real assurance that Senators can cast an informed vote.
  - It might be desirable to establish alternative, and more effective, information requirements.
- C. Require germaneness in debate at all times, and prohibit the reading of speeches.**
- Could reduce delays, and promote attendance and genuine deliberation.
  - Might be hard to enforce and often waived for accommodative purposes.
- D. Establish a separate period for general debate on measures.**
- Could increase coherence of debate and ability to cast informed votes.
  - Could increase floor attendance; otherwise, might have little effect on information levels.
  - Would decrease existing flexibility of procedure and could increase time pressures on Senators.
- E. Improve observance of rules by providing for a procedurally expert non-Member as permanent Presiding Officer.**
- Could raise constitutional questions.
  - Could diminish body's ultimate control over its own proceedings.
  - Not clear that a non-Member would exercise authority over Senators more effectively than current officers.
- F. Restore use of Calendar Call for passing routine measures.**
- Could be implemented under existing Senate rules.
  - Less flexible than current system of passing cleared measures by unanimous consent.
  - Would reduce Majority Leader's control of floor proceedings
- G. Place resolutions not immediately considered or referred on the Calendar of General Orders.**
- Might improve chances that such resolutions could receive floor consideration.
  - Would eliminate "Resolutions Over, Under the Rule," an arcane and possibly archaic complication.
  - Practical effect might be small.

The Joint Committee on the Organization of Congress  
Database of Positional Statements

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## ISSUE AREA 5: SENATE PROCEDURES

### List of Options Proposed

- |  |  |
|--|--|
| 1. Ease Requirements for Invoking Cloture  | 8. Require Measures to be Read by Title (or Section) for Amendment |
| 2. Charge Time Spent on a Quorum Call Under Cloture Against the Hour Allotted to the Senator Demanding the Quorum Call | 9. Prohibit Repetitive Votes on Same Subject in a Single Session   |
| 3. Reform Amendment Process Under Cloture  | 10. Limit Sense of the Senate Resolutions                          |
| 4. Limit Debate on Motion to Proceed   | 11. Enforce Quorum Requirements                                    |
| 5. Limit the Use of Holds  | 12. Permit Senate to go to Conference with a Single Motion         |
| 6. Require Names of Senators Requesting Holds to be Available  | 13. Miscellaneous Comments   |
| 7. Limit Non-Germane Amendments  |  |



Proposal: Ease Requirements for Invoking Cloture

## SENATE PROCEDURES:

### 1. Ease Requirements for Invoking Cloture

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Mondale, Walter - Former Vice-President	7/1, 9	
	Senator Dole	1/26, 55	
	Senator Lugar	4/22, 113	The filibuster counters the passions of the masses, allows "the cooling of the tea in the saucer"
For	Representative LaFalce	5/4, 234	
	Representative Kanjorski	6/19, 259	
	Representative Miller, George	4/22, 112	
	Representative Rostenkowski	4/22, 98	
	Senator Dorgan	6/29, 272	Agrees with Mitchell's proposal to limit number of times cloture could be required
	Senator Exon	5/25, 120	
	Senator Harkin	5/25, 145	Ratchet down cloture requirement over time
	Sinclair, Barbara - University of California	5/20, 96	Ratchet down cloture requirement after period of time
	Smith, Steve - University of Minnesota	5/20, 98-99	Create straight track procedure for Senate floor action
	Zweben, Murray - Former Senate Parliamentarian	5/18, 45	Ratchet down cloture requirement over time
See Note	Cutler, Lloyd - Former Counsel to President Carter	5/18, 21	Belives 3/5 requirement is unconstitutional
	Senator Byrd	2/2, 19	Does not believe the rules need to be changed
	Senator Cohen	5/11, 354	Committee structure reform will be meaningless if Senators continue to exercise current prerogatives

Proposal: Ease Requirements for Invoking Cloture

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Senator Mitchell	1/26, 51	Package of proposals would reduce requirement for 3/5 vote from 6 to 2 times per bill; 1/26, p. 51

Proposal: Charge Time Spent on a Quorum Call Under Cloture ...

**SENATE PROCEDURES:**  
**2. Charge Time Spent on a**  
**Quorum Call Under Cloture Against the Hour**  
**Allotted to the Senator Demanding the Quorum Call**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Senator Exon	5/25, 120	
	Senator Mitchell	1/26, 49	
	Smith, Steve - University of Minnesota	5/20, 233	

Proposal: Reform Amendment Process Under Cloture

## SENATE PROCEDURES:

### 3. Reform Amendment Process Under Cloture

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
See Note	Senator Exon	5/25, 120	Require 3/5 vote to overturn ruling of chair; deem committee amendments germane under cloture
	Senator Mitchell	1/26, 49	Require 3/5 vote to overturn ruling of chair; deem committee amendments germane under cloture
	Smith, Steve - University of Minnesota	5/20, 233	Require 3/5 vote to overturn ruling of chair

Proposed: Limit Debate on Motion to Proceed

## SENATE PROCEDURES:

### 4. Limit Debate on Motion to Proceed

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Hildenbrand, Bill - Former Secretary of the Senate	5/18, 186	
	Mann, Thomas - The Brookings Institution	2/16, 104	
	Ornstein, Norm - American Enterprise Institute	2/16, 104	
	Representative Kanjorski	6/16, 259	
	Senator Domenici	5/25, 124	
	Senator Exon	5/25, 120	
	Senator Mitchell	1/26, 48	
	Senator Nunn	6/29, 132	
	Senator Pryor	5/25, 267	
	Sinclair, Barbara - University of California	5/20, 243	Make motion non-debatable
	Smith, Steve, - University of Minnesota	5/20, 232	
See Note	Representative Foley	1/26, 21	Notes that a Lyndon Johnson had the authority to call a bill up without a motion to proceed



Proposed: Limit the Use of Holds

## SENATE PROCEDURES:

### 5. Limit the Use of Holds

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Cutler, Lloyd - Former Counsel to President Carter	5/18, 32	Limit holds to two days
	Mann, Thomas - The Brookings Institution	2/16, 102	
	Ornstein, Norman - American Enterprise Institute	2/16, 57, 102	
	Representative Miller, George	4/22, 542	Holds "constitute parliamentary blackmail"
	Senator Boren	5/11, 357	
	Senator Craig	6/29, 122	
	Senator Exon	5/25, 121	Require 16 senators for a hold
	Senator Harkin	5/25, 147	
	Senator Lott	5/25, 124	Require a Senator to request a hold in person or send a signed letter
	Senator Reid	2/16, 71	Suggests an automatic expiration for holds--perhaps 48 hours
	Smith, Steve - University of Minnesota	5/20, 99	Require five Senators for holds

Proposal: Require Names of Senators Requesting Holds to be Available

**SENATE PROCEDURES:**  
**6. Require Names of**  
**Senators Requesting Holds To be Available**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Maybe	Senator Reid	2/16, 71	
For	Mann, Thomas - The Brookings Institution	2/16, 71	
	Ornstein, Norman - American Enterprise Institute	2/16, 71	
	Senator Exon	5/25, 124	

## SENATE PROCEDURES:

### 7. Limit Non-Germane Amendments

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Mondale, Walter, Former Vice-President	7/1, 34	
	Representative Conyers	6/24, 53	
	Representative Crapo	2/4, 81	
	Representative Dellums	5/13, 1063	
	Representative Hutto	2/4, 27	
	Representative Kanjorski	6/16, 259	
	Senator Graham	5/13, 383	
	Senator Pell	5/13, 1053	

Proposed: Require Measures to be Read by Title (or Section) ...

# **SENATE PROCEDURES:** **8. Require Measures to be** **Read by Title (or Section) for Amendment**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Mann, Thomas - The Brookings Institution	2/16, 104	Majority vote for section-by-section consideration of legislation
	Ornstein, Norm - American Enterprise Institute	2/16, 104	Majority vote for section-by-section consideration of legislation
	Senator Cohen	1/26, 64	
	Senator Pryor	5/25, 268	

Proposal: Prohibit Repetitive Votes on Same Subject in a Single Session

**SENATE PROCEDURES:**  
**9. Prohibit Repetitive**  
**Votes on Same Subject in a Single Session**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Senator Mitchell	1/26, 80	
See Note	Senator Dole	1/26, 80	Notes that this has been occasionally accomplished by agreement



**SENATE PROCEDURES:**  
**10. Limit Sense of the**  
**Senate Resolutions**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Senator Pryor	5/25, 263-266	Require 1/5 of Senate to consider these resolutions

Proposal: Enforce Quorum Requirements

**SENATE PROCEDURES:  
11. Enforce Quorum  
Requirements**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
See Note	Frumin, Alan - Senate Parliamentarian	5/18, 11	Use recess for discrete periods or subject to call of Chair

Proposed: Permit Senate to Go to Conference with a Single Motion

**SENATE PROCEDURES:**  
**12. Permit Senate to Go to**  
**Conference with a Single Motion**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Senator Exon	5/25, 120	
	Senator Mitchell	1/26, 49	
	Smith, Steve - University of Minnesota	5/20, 232	

## SENATE PROCEDURES:

### 13. Miscellaneous Comments

NAME OF WITNESS	COMMENTS
Mann, Thomas - The Brookings Institution	Endorses Mitchell's package of reforms; 2/16, p. 102
Mason, David - Heritage Foundation	Views the practice of omnibus legislation as "a big problem"; 2/16, p. 36
Ornstein, Norman - American Enterprise Institute	Endorses Mitchell's package of reforms; 2/16, p. 102
Senator Boren	Convinced of need for mechanism to discipline Senate; not hopeful for self-discipline; 5/11, p. 356
Senator Cohen	Prefers Leader action & informal rules to actual reform of Chamber Rules; 5/11, pp. 355-356; Individual Senators must discipline themselves & the system, for the sake of the whole; 5/11, p. 354
Senator Kassebaum	Would support Mitchell's proposals if she were in Majority; 1/26, p. 62
Senator Mitchell	Dispense with the reading of the conference report; 1/26, p. 49
Senator Nunn	Wants a 2 day layover of conference reports; 6/29, p. 132

**SUMMARY OF OPTIONS FOR CONGRESSIONAL SCHEDULING  
AND AGENDA-SETTING REFORM**

**I. GENERAL DEBATE**

- A. Establish "Parliamentary style" cabinet question period.
- B. Establish periodic "Oxford style" debates on major issues.

**II. AGENDA SETTING**

- A. Have majority party leadership establish an agenda and schedule before each session convenes.
- B. Adopt an annual agenda by concurrent resolution, on the basis of which majority leadership would weekly announce schedules; require supermajority vote to change either.
- C. In the early weeks of a Congress, consider a series of amendable resolutions instructing committees on major issues.
- D. Permit Senate to take up measures identified in agenda by nondebatable motion.

**III. SCHEDULING**

- A. Adopt House or maintain Senate schedule of three five-day work weeks followed by one full week of recess.
- B. Adopt such a schedule only for the first session of a Congress.
- C. Establish separate times of day or week for floor and committee sessions.
- D. Start floor sessions earlier.
- E. Establish early morning session for routine business, recess for committee work and return to floor in afternoon.
- F. Reserve end of work week for floor sessions; reserve midweek for committee sessions.
- G. Improve use of automated scheduling procedures for committee meetings.
- H. Establish separate periods within a Congress for legislation, budget, and oversight, or for committee and floor work.
- I. Require adjournment by Sept. 30; dock Members' pay for time in session thereafter.

**IV. COMMEMORATIVES**

- A. Prohibit commemoratives; establish a commission to handle them.
- B. Require cosponsorship of 2/3 of chamber for commemoratives.
- C. In House, consider commemoratives on a Commemorative Calendar called only at specified times.

**V. INFORMATION**

- A. Improve knowledge of the rules.



OPTIONS FOR CONGRESSIONAL SCHEDULING AND  
AGENDA-SETTING REFORM

I. GENERAL DEBATE.

A. Establish "Parliamentary style" cabinet question period.

- Parliamentary systems, where cabinet ministers are Members of the legislature, provide little guidance on how to structure such a mechanism in a Presidential system.
- In parliamentary systems, cabinet question period operates as a form of oversight. This role in congressional functioning has not been clarified; how would it mesh with other means of oversight?
- Might primarily enhance opportunities for position taking, not policy making; could become occasion for partisan grandstanding.
- Might duplicate functions now carried out mainly through hearings.

B. Establish periodic "Oxford style" debates on major issues.

- Groups of Members could arrange debates without requiring House rule changes.
- If organized by Leadership, the debates might be dominated by committee members, as are present legislative debates.
- Offers few incentives to abandon present habits of debate that fail either to respond to opponents or to further policy thinking.
- Expands opportunities for position taking, but not necessarily those for direct input on policy.
- Might be less focused and structured than present deliberations because not directed toward concrete decisions.
- Could appear artificial and thus fail to attract Member attendance or television audience.
- Could conflict with proposals to constrain special order speeches and other forms of non-legislative debate.

- Members might find process an additional scheduling pressure.

## II. AGENDA SETTING.

### A. Have majority party leadership establish an agenda and schedule before each session convenes.

- Could be adopted independently by one chamber. However, it would require decisions about how to resolve potential problems of inconsistency between two agendas.
- Predictability could improve for Members.
- Time pressures could increase on Members and constrain opportunities for floor deliberation, participation, and informed choice.
- How would agenda be adjusted to meet changing circumstances?
- What process would be used to ensure that agenda adequately reflected Member priorities, views, and demands for participation?
- The role Minority should have in setting schedule could be a source of conflict.
- What authority should agenda have in absence of chamber vote? Enforcement might entail moving Congress from collective to managerial forms of control.
- Most floor scheduling difficulties today seem to reflect political rather than scheduling problems; announcing an agenda might not resolve such difficulties.
- If agenda is to be planned annually during early organization, what happens in the second session?

### B. Adopt an annual agenda by concurrent resolution, on the basis of which majority leadership would weekly announce schedules; require supermajority vote to change either.

- Could enhance predictability and efficiency.

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- Reduces flexibility of individual Members, as well as the Leadership, in securing the consideration of proposals and responding to changing circumstances.
- Shifts basis of floor action from political adjustment to consistent managerial control.
- Could foster gridlock if chambers did not agree.
- Could add a layer of consideration as Members seek to include pet proposals on the agenda.

C. In the early weeks of a Congress, consider a series of amendable resolutions instructing committees on major issues.

- Could be used as a means for chamber to project an agenda.
- If concentrated early in the year, would not conflict heavily with other floor activities and could diminish charges of a slow start.
- Permits a form of "great debate" focused on a specific legislative vehicle rather than a position taking opportunity.
- Would be consistent with early practices of considering proposals before referral.
- Permits Members (including minority and rank and file) to stake out positions in policy formulation early in the process rather than only at point of floor decision.
- Would provide context and input to committees while preserving committees' roles at the center of policy development.
- Degree of binding force of resolutions would have to be decided.

D. Permit Senate to take up measures identified in agenda by nondebatable motion (see Senate procedural options).

- Enhances Senate, and probably Leadership, control over floor schedule.
- Provides simple and potentially effective enforcement mechanism for agenda in Senate.

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- Would not place new burdens on subjects not on agenda.
- Whether legislation corresponds to a particular agenda item might be unclear.
- No clear House equivalent seems evident.

### III. SCHEDULING.

#### A. Adopt House or maintain Senate schedule of three five-day work weeks followed by one full week of recess.

- Could contribute to effective use of time, especially for Members from west.
- Widespread agreement that sufficient floor work cannot be accomplished in three half days weekly.
- Might or might not foster sustained, coherent deliberation and improved committee attendance.
- Could still attempt to use weekends for trips home, especially for Members from east. However, pressures on leadership for extending weekends would likely remain strong, as recent Senate experience shows.
- Securing five-day attendance might require votes on all weekdays.
- Less travel and shorter annual sessions incentives might be insufficient to secure compliance.
- Primary season demands could interfere with maintaining schedule during election year.

#### B. Adopt such a schedule only for the first session of a Congress.

- Similar effects to previous alternative except for the last point.
- Could practically serve as a limited experiment or pilot for this schedule.

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- C. **Establish separate times of day or week for floor and committee sessions.**
- Reducing committee and floor overlaps could exacerbate time pressures and further complicate Members' schedules.
  - Might not substantially reduce committee attendance conflicts unless assignment issues are also addressed.
  - Would increase time pressures, especially on Leadership, for floor action.
  - Members might still give priority to representational and constituency activities over either floor or committee sessions.
- D. **Start floor sessions earlier.**
- Conflicts would increase with committee work.
  - Non-legislative debate could be used, as already done in Senate.
- E. **Establish early morning session for routine business, recess for committee work and return to floor in afternoon.**
- Business in morning session could include special orders and organized "debates."
  - Position taking opportunities could yield improved morning attendance, followed by improved committee attendance.
  - Focus on procedural matters could yield low morning attendance.
  - Could provide means of limiting non-legislative debate (special orders) and improving predictability of daily adjournment.
  - Could help enforce five-day work week schedule.
  - Could increase fragmentation of time rather than focus.
- F. **Reserve end of work week for floor sessions; reserve midweek for committee sessions.**
- Might help improve attendance at committee sessions.



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- Would help enforce five-day work week by requiring votes at week's end.
- Otherwise, similar to alternatives already presented; could yield continual resistance to enforcement.

**G. Improve use of automated scheduling procedures for committee meetings.**

- Would automation contribute to solving problems of overlapping committee membership?
- Would committee decision makers accept constraints on scheduling from administrative coordination?

**H. Establish separate periods within a Congress for legislation, budget, and oversight, or for committee and floor work.**

- Could aid Congress in achieving fast start if attention was more explicitly focused on committee work in early months.
- Could prove difficult to ensure floor attendance during periods exclusively for committee meetings or oversight.
- Could reduce congressional flexibility to respond to emerging situations, unless time divisions could be waived, in which case effectiveness might be open to doubt.
- What if business was not completed in its allotted period?
- Previous attempts at establishing authorization reporting deadlines were judged unworkable and abolished.
- For more extensive analysis, see Budgeting Options paper.

**I. Require adjournment by Sept. 30; dock Members' pay for time in session thereafter.**

- Could reduce length of sessions.
- Could increase time pressures on Members.
- Could result in perception of paying Members for three months "only if they're not working."

- Could result in inability to complete essential business or frequent waivers.

#### IV. **COMMEMORATIVES.**

##### A. **Prohibit commemoratives; establish a commission to handle them.**

- Could eliminate Member opportunity for position taking.
- New commission could be more expensive than current system.
- Congress might attempt to recover the power by correcting perceived commission errors.

##### B. **Require cosponsorship of 2/3 of chamber for commemoratives.**

- Could decrease level of House action to establish commemorations.
- Savings in time and money might be marginal.
- Could increase resources Members devote to cosponsorship of commemoratives.
- Current requirement (1/2 of chamber) rests on Committee practice rather than chamber rules.

##### C. **In House, consider commemoratives on a Commemorative Calendar called only at specified times.**

- Time and money savings might be marginal.
- Diligent attention to advance scheduling would be needed.
- Could be made parallel to current Senate practice of considering commemoratives only at certain times.

#### IV. **INFORMATION.**

##### A. **Improve knowledge of the rules.**

- What incentives could be provided for Members?
- Could be facilitated by recodification or simplification of rules themselves.

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- Could be facilitated by improved explanatory guides and training.
- Could complicate Leadership efforts to manage proceedings.

The Joint Committee on the Organization of Congress  
Database of Positional Statements

*This database was prepared by Committee staff as a tool for our Members. This is not for re-publication or attribution. This matrix is an attempt to accurately reflect the views of our witnesses but should not be used as a substitute for the actual hearing record.*

## ISSUE AREA 6: SCHEDULING

### List of Options Proposed

1. Establish Periodic "Oxford Style" Debates on Major Issues/Improve the Quality of Congressional Debates
2. Establish Annual/Periodic Legislative Agenda
3. Improve Congressional Scheduling
4. Decrease Scheduling Conflicts Between Committees/Subcommittees
5. Decrease Scheduling Conflicts Between Floor Sessions and Committee Meetings
6. Three Five-Day Work Weeks Followed by One Full Week in District or State
7. Prohibit Commemoratives/Establish a Commission to Handle Them
8. Strengthen Leadership (For Increased Chamber Efficiency And/Or Accountability)
9. Miscellaneous Comments

Proposed: Establish Periodic "Oxford Style" Debates/Improve the Quality ...

## SCHEDULING:

### 1. Establish Periodic "Oxford Style" Debates on Major Issues/Improve the Quality of Congressional Debates

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Improve General Debate	Representative Bartlett	2/4, 80	
	Representative Buyer	6/16, 228	
	Representative Doolittle	2/4, 63	
	Ribicoff, Abraham - Former Senator	2/16, 5	
	Senator Byrd	2/2, 5-7	
	Senator Cohen	1/26, 64	
	Senator Mitchell	1/26, 65, 67-68	Would like to schedule time for debate but considers debate attached to legislation more substantive
	Smith, Steve - University of Minnesota	5/20, 224	
Improve House Debate	Brown, William Holmes - House Parliamentarian	5/18, 9	
Against Oxford Debate	Frenzel, Bill - Former Representative	1/28, 14	
	Mason, David - Heritage Foundation	2/16, 37	
	Representative Miller, George	4/22, 112	
	Robinson, Pete - Former Assistant House Parliamentarian	5/18, 42	
For Oxford Debate	Freshmen Democrats	4/1, 79	
	Mann, Thomas - Brookings Institution	2/16, 109-110	
	Representative Emerson	5/25, 115	
	Representative Fingerhut	2/4, 73	
	Representative Gephardt	1/26, 31	



Proposal: Establish Periodic "Oxford Style" Debates/Improve the Quality ...

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Representative Hoyer	5/25, 278	
	Representative Moakley	5/20, 63	
	Representative Shepherd	2/4, 183	
See Note	Ornstein, Norman - American Enterprise Institute	2/16, 57, 109-110	Skeptical of quality of debate on bills: "It has become meaningless & perfunctory" (2/16, p. 57)

Proposal: Establish Annual/Periodic Legislative Agenda

**SCHEDULING:****2. Establish Annual/Periodic Legislative Agenda**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Representative Kanjorski	6/16, 49	
	Representative Castle	2/4, 17	
	Representative Emerson	5/25, 44	
	Ribicoff, Abraham - Former Senator	2/16, 5	
	Senator Reid	2/16, 71	
For Annual Agenda	Representative Solomon	4/29, 173	
For Monthly Agenda	Senator Dole	1/26, 126	
For House Agenda	Mann, Thomas - Brookings Institution	2/16, 104	
	Ornstein, Norman - American Enterprise Institute	2/16, 104	
For Senate Agenda	Smith, Steve - University of Minnesota	5/20, 235	

## SCHEDULING:

### 3. Improve Congressional Scheduling

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Representative Gejdenson	1/28, 25-26	
For	Frenzel, Bill - Former Representative	1/28, 14	
	Mondale, Walter - Former Vice-President	7/1, 4	
	Representative Hastert	2/4, 239	
	Representative Castle	2/4, 17	
	Representative Gephardt	1/26, 31	
	Representative Natcher	3/11, 20	
	Representative Skelton	2/4, 21	
	Senator Boren	2/16, 64	
	Senator Cohen	5/11, 359	
	Senator Dole	1/26, 54, 64	Get a weekly or monthly floor schedule so Senators may be notified
See Note	Jones, Jim - Former Representative	1/28, 25	"You can [not] run a legislative body on a train schedule" but there can be "more orderliness"
	Marsh, John - Former Representative & Secretary of the Army	6/22, 118	Would set mandatory adjournment dates
	Senator Kassebaum	3/16, 2	Believes her budget plan will improve congressional scheduling
	Senator Mikulski	3/18, 20-21	Believes in a timetable for authorizing legislation
	Senator Mitchell	1/26, 48	Believes his package of procedural reforms would streamline Senate scheduling

## SCHEDULING:

### 4. Decrease Scheduling Conflicts Between Committees/Subcommittees

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Davidson, Roger - University of Maryland	4/20, 46	
	Representative Castle	2/4, 17	
	Representative de la Garza	5/11, 337	
	Representative Doolittle	2/4, 63	Prohibit subcommittees from meeting at the same time as its full committee
	Representative Emerson	5/25, 110	
	Representative Fingerhut	6/16, 60	
	Representative Glickman	4/22, 72, 75	Likes prospects of computer scheduling but stresses that reduction in the number of committees will help most
	Representative Goodling	2/4, 19	
	Representative Hutto	2/4, 27	
	Representative Shepherd	6/16, 60	
	Representative Tauzin	5/25, 136	
	Senator Boren	1/26, 45	
	Senator Brown	2/2, 47	
	Senator Dole	1/26, 56	
See Note	Representative Obey	3/11, 21-22	Points out that a 5-day work week would ease the difficulties in committee scheduling
	Senator Domenici	1/26, 45	Points out that a computer scheduling system has been tried before, but no one used it

Proposal: Decrease Scheduling Conflicts Between Floor Sessions and Committee Meetings

## SCHEDULING:

### 5. Decrease Scheduling Conflicts Between Floor Sessions and Committee Meetings

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Con	Senator Byrd	2/2, 21	
For	Derwinski, Edward - Former Secretary, Department of Veterans' Affairs	6/22, 22	
	Representative Fingerhut	6/16, 60	
	Representative Kanjorski	6/16, 50	
	Representative Nussle	2/4, 66	
	Representative Shepherd	6/16, 60	
	Senator Boren	1/26, 45	
	Senator Domenici	5/11, 359	
For Daily and Weekly <sup>1</sup>	Representative Emerson	1/26, 44	
For Daily <sup>2</sup>	Representative Tauzin	5/25, 136	
	Ribicoff, Abraham - Former Senator	2/16, 13-14	

<sup>1</sup> These witnesses agreed with the proposal to schedule floor and committee work in both daily and weekly increments.

<sup>2</sup> These witnesses agreed with the proposal to schedule floor and committee work in daily increments.



Proposed: Three Five-Day Work Weeks Followed by One Full Week in District or State

## SCHEDULING:

### 6. Three Five-Day Work Weeks Followed by One Full Week in District or State

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Representative LaFalce	5/4, 242	
	Representative Montgomery	5/6, 286	
For	Mann, Thomas - Brookings Institution	2/16, 105	
	Ornstein, Norman - American Enterprise Institute	2/16, 105	
	Representative Beilenson	3/23, 7	
	Representative de la Garza	5/11, 329	
	Representative Dunn	4/29, 179; 6/16, 6	
	Representative Fingerhut	6/16, 60	
	Representative Glickman	4/22, 76	
	Representative Moorhead	5/11, 339-340	
	Representative Natcher	3/11, 20	
	Representative Nussle	2/4, 66	
	Representative Roemer	6/16, 2-3	
	Representative Shepherd	6/16, 60	
	Representative Solomon	2/4, 220; 4/29, 173	
	Representative Tauzin	5/25, 136	
	Ribicoff, Abraham - Former Senator	2/16, 13	
	Senator Byrd	2/2, 7, 20-21	
	Senator Murray	4/1, 43	

Proposal: Three Five-Day Work Weeks Followed by One Full Week in District or State

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Sinclair, Barbara - University of California	5/20, 94	
	Smith, Steve - University of Minnesota	5/20, 97	
See Note	Representative Mazzoli	2/4, 56	Would like to experiment with a schedule alternating 5-day and 3-day work weeks
	Representative Obey	3/11, 21	Notes that the House almost follows a 3/1 schedule, that the real issue is 5-day work week

Proposal: Prohibit Commemoratives/Establish a Commission to Handle Them

**SCHEDULING:**  
**7. Prohibit Commemoratives/Establish a Commission to Handle Them**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Representative Derrick	5/13, 394	
	Representative McCurdy	2/4, 36	
	Representative Skelton	2/4, 21	
	Representative Upton	2/4, 52	
	Senator Boren	2/4, 39	

Proposal: Strengthen Leadership (for Increased Chamber Efficiency/Accountability)

## SCHEDULING:

### 8. Strengthen Leadership (For Increased Chamber Efficiency And/Or Accountability)

POSITION	NAME OF WITNESS	PAGE #	POSITION
Against	Mason, David - Heritage Foundation	2/16, 39	Against giving Leadership new scheduling powers
	Senator Byrd	2/2, 13-14	
For	Ornstein, Norman - American Enterprise Institute	2/16, 53	
	Representative Foley	1/26, 21	Agrees to marginal strengthening of the Leadership
	Representative Glickman	4/22, 65	
	Representative McCurdy	2/4, 36	
	Representative Michel	1/26, 37	
	Representative Obey	1/26, 74	
	Senator Boren	1/26, 65-66	
	Senator Cohen	1/26, 64; 5/11, 355	
	Senator Dole	1/26, 65	
	Senator Domenici	5/11, 359	
	Senator Lott	2/2, 20	
	Senator Mitchell	1/26, 52	Majority & Minority Leaders should have exclusive power to make committee assignments and limit the number of roll call votes
	Senator Reid	1/26, 21	

Proposal: Miscellaneous Comments

## SCHEDULING:

### 9. Miscellaneous Comments

NAME OF WITNESS	MISCELLANEOUS
Mason, David - Heritage Foundation	Reduce congressional schedule to either 6 or 8 months, 2/16, pp. 37-38
Representative Allard	Supports a mandatory adjournment date for Congress, 2/2, pp. 35-36
Representative Castle	Supports spending more time in session on the House floor, 2/4, p. 17
Representative Dreier	Supports mandatory adjournment date for Congress, 2/2, p. 36
Representative Emerson	Supports 6 or 7 month schedule for Congress, 1/26, p. 44
Representative Nussle	Would have first 90 days of a session for committee work, and the rest for floor sessions and conducting oversight, 2/4, p. 66
Representative Skelton	Recommends a set, predictable floor schedule, 2/4, p. 21
Senator Bond	Believes Congress should have a mandatory adjournment date, 2/2, p. 34
Senator Dole	Prefers a six month congressional schedule, 1/26, pp. 55-56
Smith, Steve - University of Minnesota	Believes a national primary day would help scheduling difficulties, 5/20, p. 103



## HEARING SUMMARY, MAY 27, 1993

Three witnesses: Representative Patricia Schroeder; Representative Olympia Snowe; and Nancy Kingsbury (GAO).

Representative Patricia Schroeder

She stated that she has been involved in the issue of congressional coverage under workplace-related laws since 1976 when she and several other Members formed an ad hoc committee, the House Fair Employment Practices Committee. That Committee, however, was voluntary, and beginning in 1979 she introduced legislation to establish a formal system for protecting rights of congressional employees.

Her initiative was not taken seriously until 1988 when the House Committee on Standards of Official Conduct, in response to allegations that a Member sexually harassed one of his employees, did little more than issue what she described as a "slap on the wrist." She said that this and subsequent cases considered by the House and Senate Ethics Committees show that it is a generally unsatisfactory procedure to have colleagues consider such charges.

Stated that the decision by the House Ethics Committee in the 1988 case prompted the House to take her legislation seriously and adopt rules specifically prohibiting employment discrimination. The Office of Fair Employment Practices, designed to enforce these protections, began operating in January, 1989. In 1991, the Senate specifically covered itself under the Civil Rights Act of 1964 and set up its own Office of Fair Employment Practices, putting in place procedures that built upon those initially developed by the House.

Today, the issue of protection for congressional staff is again in the news. This time, Congress is subjected to misleading or inaccurate stories alleging that Congress is exempt from civil rights and other workplace-related laws. Such media coverage has served to further undermine public confidence in Congress.

Nonetheless, she is concerned about the adequacy of the enforcement mechanism. To address this issue, in December, 1992, she and Representative Olympia Snowe requested, on behalf of the Congressional Caucus for Women's Issues, that the General Accounting Office undertake a study of the House Office of Fair Employment Practices to see how well it was functioning.

From the GAO findings, it seems that the Office has not lived up to expectations. Very few congressional staffers are availing themselves of the process established five years ago.

Through March of this year, the Office had never had a single sexual harassment case filed. Is this because there is no sexual harassment occurring on the Hill? A recent survey by the Washington Post found that women on the Hill

reported experiencing sexual harassment at just about the same rate as women in the private sector.

So why are employees not using the Office? First, employees may fear being fired if they report civil rights violations, or they may fear being unable to obtain other employment on the Hill or with associations that deal with Congress if they become listed as "troublemakers." Others may think that pursuing a claim is not worth the time and effort, believing that they will soon move to another office anyway. These kinds of concerns are ones that Congress can do little to remedy.

However, there are other reasons why the system is not working, and these reasons are ones Congress can address. First, many employees may not know that House rules prohibit discrimination, and they may not know that the Office of Fair Employment Practices exists. The Office has been negligent in not extensively publicizing its existence. Only three times in its existence has it produced and distributed any material regarding employees' rights and the procedure for filing a discrimination complaint. In fact, one of those three times occurred just a few weeks ago, after the GAO investigation had been launched.

She understands that the Office now intends to include information in the employment packets of all new House employees. An additional step should be requiring Members to post this information in their offices. Educating employees and employers about their rights and responsibilities should be high on the list of the Office's duties.

But lack of information is just one problem. Employees may doubt that they will receive a fair hearing. The Office is under control of the Clerk of the House, and the employment review panel is composed entirely of Members and congressional staff. Although she has no doubt that this panel will do its best to reach an impartial conclusion, a congressional employee may not be quite as confident about the impartiality of the system.

She believes that there are a number of steps Congress can take to increase confidence in the system. She explained that many recommendations advanced by herself and Representative Snowe are based upon legislation developed by Representative Christopher Shays, who has been considering how to improve the process. She said that she and Representative Snowe will soon introduce legislation that builds upon the Shays proposal, and will incorporate many of the original proposals made by herself and former Representative Lynn Martin in the 1980's.

She said that Representative Snowe would present the details of their plan, and she simply wanted to state a few broad concepts. One is to establish an independent Office of Congressional Compliance, composed of a board of directors with expertise in civil rights law and an understanding of Congress. Only a minority of members of the board could be current or recently retired Members of Congress or House officers. The office would replace the current Office of Fair Employment Practices.

Furthermore, staff who are not satisfied with decisions made by the new office would have the right to appeal to a quasi-judicial board composed of retired federal or administrative law judges. Although Representative Shays' bill grants full judicial review, she is concerned that such a provision could be invalidated on constitutional grounds, leaving staff with no appeal mechanism. She believes that the quasi-judicial board would be far less likely to be held unconstitutional.

She said that Congress must act quickly on this issue. Congressional staff deserve to have the same level of protection as employees in the private sector. She urged the Joint Committee to work with her and Representative Snowe on this issue.

#### Representative Olympia Snowe

She said that only sixteen complaints have been filed with the Office of Fair Employment Practices in the last four years. Only four cases completed the entire process. Half of the complaints concerned age discrimination. There was not even one case alleging sexual harassment. Since March, 1993, five cases have been filed, including one involving sexual harassment. The recent cases were filed after the Office distributed to employees information about its existence.

GAO found that there were 1200 contacts to the Office since 1989, but many of these were only to seek information.

She will ask for a confidential survey of House employees concerning discrimination and harassment problems. The purpose of the survey would be to determine whether staff feel that they have been discriminated against and why they do not use the Office of Fair Employment Practices.

She supports Representative Shays' legislation and she wants a judicial review provision. However, she does not want the issue of judicial review to block passage of reform legislation. She also favors adding an investigative component to the Office of Fair Employment Practices.

#### Questions and Answers

Allard: Why are congressional employees treated differently?

Schroeder: House employees have not been informed about the Office of Fair Employment Practices.

Allard: Suppose the Occupational Safety and Health Act applied to Congress, and there was a violation of the standard governing fire sprinklers. Who would be responsible? The Member in whose office the sprinkler was located or the officials who designed and maintained the sprinkler system? Under the Family and Medical Leave Act of 1993, there is no judicial review for House and Senate employees. Why?

Schroeder: The separation of powers doctrine bars judicial review. I suggest using retired federal judges to hear and review employee discrimination cases.

Allard: Members should be treated the same as private citizens.

Schroeder: Let's make sure that the courts don't overturn reform legislation on separation of powers grounds.

Snowe: The Senate procedure allows for judicial review. Reform legislation should be passed soon. The new office should be independent and provide a fair process. Some of the employment laws apply to the House and Senate, but not all of them.

Norton: Only in 1991 did the Senate establish such an Office. In regard to judicial review, the executive branch allows itself to be taken into court on discrimination complaints. At the least, the courts should play an error-correction role. I question the need for de novo review, but support appellate judicial review of the decision of an administrative enforcement entity. I do not support judicial review of factual determinations by an administrative entity.

Schroeder: The Office of Fair Employment Practices procedure does not guarantee that staff and the review panel have civil rights expertise.

Norton: The only argument for de novo review is that House and Senate employees should have the same rights as private sector and executive branch employees. Should posting of jobs be required?

Snowe: I support posting.

Norton: In regard to the Family and Medical Leave Act, what kind of administrative body should enforce this in the House? I don't want a large bureaucracy.

Snowe: That's an issue we need to study. The House Office has only four employees.

Reid: I was appointed chairman of the Bipartisan Task Force on Senate Coverage, which is studying labor laws, the Freedom of Information Act, and conflict of interest laws. It's difficult to apply these laws to Congress with enforcement by the executive branch because of the separation of powers factor.

Schroeder: I suggest that Congress utilize the GAO personnel procedure. I have concerns about applying the Freedom of Information Act to constituent correspondence.

Snowe: We should look at the way that the executive branch has handled these problems.



Schroeder: We should treat our employees fairly. But the speech or debate clause makes for a constitutional distinction between Congress and the executive branch.

Reid: We should have one office handle complaints by House and Senate employees.

Dreier: There is concern about the cost of imposing these various regulations on Congress. But these are costs that have also been imposed on the private sector.

#### Nancy Kingsbury

As requested by the Congressional Caucus for Women's Issues, GAO reviewed the House Office of Fair Employment Practices process for handling employment discrimination complaints. As part of this request, GAO compared OFEP's process to the procedures followed by the Senate and the Equal Employment Opportunity Commission.

The House Office of Fair Employment Practices does not investigate complaints. Instead, the Office follows a three-step process that consists of (1) counseling and mediation; (2) formal complaint, hearing, and Office of Fair Employment Practices Review; and (3) final review by an eight-member review panel. There are some differences between the processes of the Office, the processes of the Senate, and those of the EEOC, such as the investigation of complaints and the extent of judicial review.

Since the Office began operations in November, 1988, it has received over 1200 inquiries or expressions of concern relating to the issues it addresses--fair employment practices and violations of the Fair Labor Standards Act. According to OFEP's records, about one third of these contacts involved specific concerns about these issues; the remainder were identified as only general inquiries. Sixteen employees initiated informal complaints as a result of these contacts, and seven of these sixteen employees filed formal complaints. The employees most often alleged that they were discriminated against on the basis of race, age, and/or color. The issue cited most often by the complainants was termination of employment.

Although the number of complaints filed since OFEP began operations is relatively small, it is unclear whether this reflects a high turnover rate among House employees or confidentiality concerns (as suggested by the OFEP Director), a lack of meritorious cases, or problems with OFEP's process itself.

[Donnald Anderson, Clerk of the House, did not testify but submitted statement for the record.]

Section 4 of House Rule 51 stipulates that the Office of Fair Employment Practices shall fall under the "administrative direction" of the Clerk's Office.



He reviewed the options available for employees, prior to the existence of OFEP, for seeking redress in employment discrimination matters. He also reviewed the history of the adoption of OFEP, and noted that House employees have been afforded statutory coverage under the Fair Labor Standards Act, the Americans with Disabilities Act of 1990, the Civil Rights Act of 1991, and the Family and Medical Leave Act of 1993. Employees are provided coverage under the "rights and protections" enacted in these laws through the "remedies and procedures" outlined in House Rule 51.

In order to provide this information to House employees, particularly recently hired staff, the House OFEP Fact Sheet, which includes the updates on these laws, was mailed to all employees at their home addresses and to all employing authorities for the purpose of posting. In addition, we have also taken steps to see that a copy of the Fact Sheet is included in the new employee packet for future employees.]

## HEARING SUMMARY, JUNE 8, 1993

Eleven witnesses: Senator Charles E. Grassley, Senator Don Nickles, Representative Christopher Shays, Representative Dick Swett, Representative Harris Fawell, Hal Bruff, David Frederick, Steven Ross, Nelson Lund, Marsha Greenberger, and Barbara Arnwine.

Panel Presentation by Senator Charles E. Grassley and Senator Don Nickles.Senator Charles E. Grassley

Opened by observing that despite recent legislative actions, Congress may still be viewed as a "privileged elitist institution," lacking in trust of the American people, because of its exemption from most laws that apply to the private sector. The Americans with Disabilities Act (ADA) and the 1991 Civil Rights Act, as amended by the Grassley Amendment, extended to Senate employees the right to be free of discrimination mandated by Title VII of the 1964 Civil Rights Act, the ADA, the Age Discrimination in Employment Act, and the 1973 Rehabilitation Act. However, unlike the private sector employee who may file a *de novo* action in federal district court if the EEOC is unable to administratively resolve a discrimination charge, enforcement in the Senate is based upon an exclusively internal procedure with limited federal appellate court review of the administrative record. This separate enforcement scheme signals to the public that Congress is willing to abide by laws that it applies to others only when convenient or it fits the congressional agenda to do so. This shortcoming should be eliminated so that all laws apply to Congress on the same basis as the private sector.

Dismissed the argument that the separation of powers doctrine somehow precludes application of the laws to Congress. Any problems in this regard could be avoided simply by creating a separate enforcement division within the EEOC, the General Accounting Office, or some other entirely separate agency. In any event, the same legal standards and remedies must be made to apply to the Congress. Finally, he argued that since the hiring function is not at the "core" of a Member's legislative duties, congressional coverage by federal civil rights and labor laws is not precluded by the constitutional speech and debate clause.

Senator Don Nickles

Remarked that he is co-sponsoring S. 103, the Congressional and Presidential Accountability Act, a measure he originally offered as an amendment to the Civil Rights Act of 1991 but which was rejected in favor of the Mitchell-Grassley Amendment providing for internal Senate enforcement of several civil rights laws subject to limited judicial review. The bill would make Congress and its instrumentalities subject to all regulations and remedies contained in the following laws: the National Labor Relations Act of 1935 (NLRA), the Fair Labor Standards Act of 1938 (FLSA), the Equal Pay Act of 1963 (EPA), the Civil Rights Act of 1964, the Age Discrimination Act of 1967 and amendments of 1975, the Occupational

Safety and Health Act of 1970 (OSHA), the Equal Employment Opportunity Act of 1972, the Rehabilitation Act of 1973, and the ADA.

In particular, asserted that numerous examples of "clear violation" of OSHA standards are obvious in and about the Capitol and other congressional facilities and that despite the enormous potential costs of compliance and penalties, Congress should assume the same liability as is presently borne by the private sector. Coverage by OSHA as well as the jury trial and damage provisions of the 1991 Civil Rights Act would be "instructive" in acquainting Congress with the economic costs and practical difficulties of complying with the laws it imposes on the American people. Conceding that "legitimate separation of powers questions" may inhere in Executive Branch regulation of the other branches of government, he felt that his legislation could be a "starting point" for the Joint Committee and the Task Force on Congressional Coverage in seeking a "practical solution."

### Questions and Answers

Allard: With so many laws on the books, and given the potential costs of compliance, how can one administrative agency be established within Congress to enforce all of these laws and how would judicial review be accomplished?

Nickles: Since every other institution in the country must comply, we must do something to eliminate these exemptions. An administrative review board may be set up within the Congress to avoid the separation of powers issue, but there must be judicial review.

Grassley: The 1991 Act was a compromise and I prefer de novo review.

Dreier: Presidents in the past have used "strong arm" tactics to work their political will with a reluctant Congress. What if similar pressures were exerted by the Executive in the guise of enforcing the laws against Congress?

Nickles: Historically, abuse of Executive power has backfired. These are co-equal branches of government and while Congress operates in a fishbowl that may at times invite complaints, I would be surprised if the Executive Branch in its role as law enforcer would be that foolish.

Cohen: Do you favor unionization of Senate employees?

Grassley: If it's a right in the private sector, Congress should grant it to its own employees. I would approve of it.

Nickles: The NLRA gave the right to bargain to private employees that should also apply in Congress. There may be some service units, for example, the congressional restaurants, that are already covered. I have no objection to organizing congressional staff.

Cohen: Application of the laws to Congress is often viewed as a deterrent to irresponsible or onerous legislation. However, there would be no personal liability on Members in the application of OSHA to Congress. So does this not mean that we are reaching into the taxpayer's pocket?

Grassley: That's right. But when the law is applied in the private sector, the company, board of directors, and shareholders must pay for any necessary costs of compliance.

Panel Presentation by Representative Christopher Shays, Representative Dick Swett, and Representative Harris Fawell.

Representative Christopher Shays

Opened remarks by observing that H.R. 349, the "Congressional Accountability Act," of which he is a leading proponent, has amassed 226 cosponsors, a bipartisan majority of the House. Accordingly, the focus of that legislative effort has now shifted from whether to how the laws should apply to Congress. Stressed that despite institutional differences between Congress and the private sector, every effort must be made to find a constitutional solution in order to restore the public's faith in the Congress and the legislative process. To this end, focused on provisions in a substitute version of the bill, outlining a process for enforcing the laws to Congress that could constitutionally be applied.

The new legislation would establish for Congress an Office of Compliance to replace the current OFEP Offices in both the House and the Senate. The Office would be governed by a 13-member board--four current House and Senate Members from both parties, two current staff members, and seven outside individuals--and would have two major responsibilities. First, it would conduct a study of laws relating to employment, discrimination, employee health and safety, and public access to information to determine which do not cover Congress and issue recommendations, together with implementing regulations, to be approved by the full House and Senate. Second, the Office of Compliance would serve as the body for dispute resolution in cases where an employee alleges violation of one of the laws. Dispute resolution would be a four-step process of counseling, mediation, internal hearing, and judicial review.

Although judicial review raises constitutional issues, these are not insuperable. Stated his expectation that most disputes would be resolved at the earlier stages anyway. Concluding, Also stated that congressional coverage must in all aspects of rights, remedies, and process, be consistent with private sector coverage. Only then will the public image of Congress improve and its Members become sensitive to the effects of the laws it passes.



Representative Dick Swett

Also emphasized that a majority of House Members have joined as co-sponsors of the Congressional Accountability Act, making it imperative that the practical difficulties surrounding enforcement mechanisms, liability questions, and the constitutional issue of judicial review be confronted and resolved by the Committee. He also expressed concern for "problems of the existing Office of Fair Employment Practices (OFEP)" and particularly endorsed application of OSHA standards to the Congress.

Representative Harris W. Fawell

Concurring in the view that Congress is "the last plantation" when it comes to labor law and civil rights law enforcement, he noted that Congress is totally exempted from OSHA and ADEA. In addition, he disagreed with the current state of congressional coverage under Title VII, ADA, and the Family and Medical Leave Act, which retain control in the House of the process by which employee complaints are reviewed and remedied solely by internal OFEP procedures. Employees are denied *de novo* review in federal courts as well as monetary damages, legal fees, and other remedies generally available in private sector cases. In effect, he felt that the entire OFEP process smacks of "secret chambers' adjudication" which discourages employee confidence in the system, citing a GAO study determination that only seven formal discrimination complaints have been filed with OFEP since 1988.

The constitutional doctrine of "separation of powers," he asserted, probably would prevent Congress from subjecting itself to Executive Branch scrutiny and remedial enforcement by the EEOC or DOL but poses no similar obstacles to a private cause of action and judicial enforcement of the labor and civil rights laws against congressional Members. In support of that proposition, he relied on a CRS memorandum to Mr. Goodling which concluded that the "speech and debate" clause "as informed by the interpretive judicial decisions does rather strongly suggest that the courts would sustain the validity of the enactment of laws authorizing protections to employees, including judicial remedies against Members of Congress should Congress choose to take that step." Concluded by endorsing the Congressional Accountability Act and another proposal he plans to sponsor with Representative Goodling "which takes a more focused approach."

Questions and Answers

Dreier: What safeguards are built into your bill to limit possibility of executive abuse?

Shays: The Office of Compliance will examine which laws should apply to Congress, taking into account several factors including the burden on the institution and costs to the public. In addition, the inclusion of seven noncongressional members on the board is intended to maintain integrity separate of the Executive Branch.



Spratt: Does your bill apply to the Executive Branch?

Swett: No.

Fawell: The Goodling proposal would apply to the Executive Branch and Congress across the board.

Spratt: Would Congress pay legal fees of parties involved in these actions? We should address that in the legislation.

Fawell: Agreed.

Cohen: Is there any reason to distinguish Congress, the Executive Branch, and the public for purposes of coverage of law?

Swett: Our bill would hold Congress to the same standard as the Executive Branch.

Shays: If it is good enough for the Executive Branch, it is good enough for us. If adjustments in coverage become necessary, they should apply to both.

Cohen: Are the OSHA laws too burdensome; should they be advised?

Shays: Recounted a situation concerning his decision to abide by OSHA standards with respect to installation of a photocopy machine in his district office, and how he became aware at that time of the complexity of many of the technical requirements imposed by that law.

Fawell: OSHA is unreasonable in a number of areas but it should apply in all respects to Congress as it does to others. Congressional experience under the law would act as a constraint on future overburdening legislation.

Swett: The spirit of the law is fine but the letter has led to regulation in a vacuum. Subjecting Congress to OSHA requirements will better inform lawmakers of the spirit and the letter of the law.

Cohen: What about the personal liability of Members for federal law violations?

Shays: The personal liability issue should not inhibit consideration of the legislation.

Swett: Political currency, public stature, as well as money is the cost of violating the law.

Panel Presentation by Hal Bruff, George Washington University; David Frederick, Shearman & Sterling Law Firm; Nelson Lund, George Mason University' and Steven Ross, former General Counsel of the House of Representatives.

Hal Bruff and David Frederick

These witnesses, both of whom have studied the application of laws to Congress in their role as members of the Congressional Process Committee of the American Bar Association, offered a classification of congressional functions which they considered relevant to a determination of when and how any such extension of coverage should be effected. This classification scheme included 1) "core" functions prescribed for Congress by the Constitution, e.g. legislating, impeachment, advise and consent, etc., 2) "quasi-constitutional" functions--such as investigations and oversight--which although not explicitly mentioned are related to the constitutional core; 3) the informing function of Congress which is not constitutionally required; 4) constituent services; and 5) a broad range of "proprietary activities," e.g. hiring or firing employees, policing, restaurant, and custodial services, which are furthest from the constitutional core and which do not distinguish Congress from other institutions in society. Generally speaking, Congress' efforts to extend statutory regulation to itself become less problematic, both constitutionally and pragmatically, the farther away the impact of a law is from a core function.

The next stage of analysis they described requires a determination of relevant congressional entities for application of the laws. The Joint Committee may focus here on either the functions performed by the entity, i.e. legislative versus proprietary, or the functions performed by individuals in different job categories, e.g. legislative aid versus Capitol police. Legal requirements appropriate for one congressional entity or employment position, e.g. performance audits, may be unsuited to other offices or staff functions. In general, however, favored an approach based on the existing model which adopts internal procedures to enforce the substance of laws of general applicability without subjecting the Member of Congress to federal court litigation or judicial review. Cited legal questions of legislator standing, practical concerns for the cost and delay inherent in judicial proceedings, and the burden of sanctions and remedies imposed against Members, in support of this position. Nevertheless, stressed the importance of a centralized system for codifying the rules, and resolving disputes, concerning employer-employee relations, public access to information, and occupational health and safety so that they are "simple and accessible" to employees and the general public.

Recommended creation of a "centralized administrative clearinghouse" for both the House and the Senate tasked with screening out frivolous or overly partisan complaints and directing meritorious ones to the appropriate forum within each body for resolution. A "bifurcated" system with separate investigative and adjudicative functions would insure fairness, institutional flexibility and public confidence in the system. Alternative procedures for counseling and mediation prior to the formal complaint process, like that in the current Senate OFEP model, should also be explored, they stated. Other issues that Congress must consider in devising

this system include the makeup of the administrative and adjudicative bodies (e.g. former Members, retired judges, current congressional staffers); discovery and procedural rights of the parties; public access to proceedings; remedies; and the right to administrative and/or judicial appeals.

#### Nelson Lund

Expressed the view that congressional employees can be given the same statutory rights as employees in the Executive Branch and elsewhere without violating any principle of constitutional law. The only "relevant" constitutional provision--the speech and debate clause--immunizes Members and congressional staff from legal inquiry for acts that are an "integral part" of the legislative process. It does not, however, protect Members from the legal consequences of "extra-legislative activities," like employment decisions, which may be "very important in facilitating the legislative process," but "are not part of it." He found a close analogy between constitutional speech and debate protections and the common law doctrine of absolute immunity which has been judicially determined to have no application to employment decisions of judges, prosecutors, or state legislators. Instead, the common law suggests that qualified immunity, affording only limited protection to government officials for unknowing violations of law, is the appropriate standard to apply to those who make employment decisions in the public sector. Accordingly, he recommended that an explicit provision for qualified immunity be included in any legislation extending the employment laws to Congress so that Members are not inadvertently left with less protection than hiring officials elsewhere in government.

There are three good reasons to disregard the Browning decision of the D.C. Circuit which rejected on speech and debate clause grounds a race discrimination claim by a stenographer for the House Clerk. First, he felt that the decision was "highly questionable" when decided. Second, its reasoning was subsequently repudiated by the U.S. Supreme Court in White v. Forrester which decided that common law absolute immunity did not apply to employment decisions by state judges. Finally, if Congress itself authorizes judicial review of congressional employment discrimination claims, he concluded, "any hint of a conflict with the purpose of the immunity clause becomes far more attenuated."

#### Steven Ross

Disagreed with the conclusion of the previous witness that Browning was no longer good law insofar as it insulated Members from liability for employment decisions respecting personnel involved in the legislative process. However, he felt that the same substantive rules governing liability and remedies in employment cases could be applied to Congress as pertain to the Executive Branch. The speech and debate clause comes into play only in connection with the procedures adopted to enforce these legal rights and remedies. In his view, the Constitution's textual commitment to legislative independence is an important factor distinguishing speech and debate immunity from immunity rules applied by the court in other contexts. Many employment decisions in Congress are sufficiently integral to the legislative process to support speech and debate immunity under the Browning decision. In

addition, he asserted generalized separation of powers considerations as further support for an independent enforcement system to actions against Members of Congress.

### Questions and Answers

Dreier: There are eight or so different enforcement procedures in the various federal equal employment opportunity laws. What should we consider?

Bruff: I would favor a centralized structure organized around a single Office of Compliance with responsibility for deciding one-by-one the myriad of issues raised by applying the laws to Congress.

Frederick: A centralized system has the additional advantage of providing a forum for the joinder of claims under various laws. By developing broad-based experience over time, this would result in more effective and expedited investigations and determinations.

Ross: There should be separate mechanisms for the House and Senate because of the constitutional separation of the bodies with varied rights and privileges.

Lund: A centralized mechanism would enhance the appearance of independence from either or both houses.

Dreier: Mr. Ross, has there ever been a constitutional challenge over *de novo* review by the courts of employment discrimination claims against the Library of Congress?

Ross: No.

### Panel Presentation by Marcia Greenberger, National Women's Law Center and Barbara Arnwine, Lawyer's Committee for Civil Rights

#### Marcia Greenberger

While deficiencies in civil rights coverage persist in other areas, the major remaining shortcoming is the lack of protection for congressional employees. Statistics indicate that during a recent past period, while the House OFEP received only 21 discrimination complaints, only one of these involving alleged sexual harassment, over 1,000 preliminary inquiries were directed to that Office. There is no evidence to suggest any different situation under the Senate procedure. Nonetheless, there is increasing evidence of widespread sexual harassment and other forms of discrimination on Capitol Hill.

The systems presently in place are not working and reform is necessary. It is essential that the same full range of substantive and remedial protections--including federal court injunctions, frontpay, backpay, damages, and jury trials--presently



extended to other employees by the federal EEO laws be made available on an equal basis to congressional employees. While some constitutional questions may remain, the best alternative would be coverage providing a right to judicial review. If this is not feasible, however, an impartial administrative mechanism should be adopted utilizing, for example, the services of retired judges who are free of political interference. Recommended that current proposals be expanded, however, to extend coverage to journalists, lobbyists, constituents and others besides employees who routinely come into contact with House and Senate Members.

#### Barbara Arnwine

Urged the Joint Committee to require the gathering of statistics and other record-keeping as to the number of minorities, women, disabled, and elderly employed by Congress as part of any legislation passed on this subject. Because of legal and practical limits to Bivens-style actions, legislation is needed to establish a fair and impartial discrimination complaint process in the House that does not depend on a review panel consisting solely of House Members and congressional staff. Any legislation should include an investigative function in the House OFEP and an education and outreach function. Stated that judicial review is clearly the best means of applying the law in a uniform, impartial manner, although constitutional questions remain.

#### Questions and Answers

Norton: If the legislation does not provide for judicial review, how are errors in the application of laws to Congress to be corrected? Are there any potential constitutional problems in inconsistent legal applications?

Greenberger: We support judicial review. Judicial review in the Senate is limited to appeals and may result in some inconsistencies for that reason. It is more of a problem under House procedures, however, where there is presently no judicial review of either factual or legal determinations.

Arnwine: A purely internal process should stipulate that the panel is required to apply the law of the circuit where it sits. A panel of retired federal judges could also be added to insure consistency. Speech and debate exemptions as applied to one type of employee as opposed to another could also foster ill will which should be avoided.

Norton: Reiterated concerns for insuring consistency and avoiding erroneous interpretations of law. The reason for judicial review is distrust of the administrative enforcement function. Are you advocating internal review by disinterested parties followed by de novo review?

Greenberger: The Senate does not have an independent factfinding body; investigations and resolution of complaints remains within the Senate itself. The Ethics Committee has the ultimate administrative authority. The principal



consideration is maintaining the appearance of distance and impartiality and the employee's willingness to use the process. The House system is aggravated by the fact that it is driven by individual complaints whereas it is important to look for broad-based patterns--statistics--not now comprehended by the House or the Senate procedures.

Arnwine: The problem of impartiality in the Senate procedures stems from the body's retention of counsel to defend Members. There are also concerns for confidentiality and that employees must assume the burden of coming forward and complaining.

Greenberger: There is no third-party complaint assistance.

Norton: Who would pay damages?

Arnwine: In the Senate, the Member is required to indemnify for expenses and damages.

Norton: If I hire my personal staff strictly on the basis of their D.C. residency, it has a disparate impact on whites. What are class action implications, and should distinction be made between personal Member staffs and committee staffs in this regard?

Greenberger: The same principles should apply.

Arnwine: A provision in § 316 of the 1991 Civil Rights Act exempts consideration of residence, domicile, or political affiliation and compatibility as selection criteria from coverage of Senate OFEP provisions.

# CRS Report for Congress

## Congress' Exemption From Selected Major Legislation: A Legal Analysis

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## **CONGRESS' EXEMPTION FROM SELECTED MAJOR LEGISLATION: A LEGAL ANALYSIS**

### **SUMMARY**

Congress has been widely criticized by the press, the President, and by many Members themselves for being exempt from various laws which apply to the private sector and/or to the executive branch. Articles and editorials on the subject argue that such congressional exemptions place Congress "above the laws" that are applicable to other citizens or public officials.

Public attention has focussed primarily on congressional exemption from equal employment opportunity and labor legislation. The exclusion of congressional employees from the scope of such laws may be explicable in part by constitutional concerns and in part by policy considerations.

The legal grounds often cited as the basis for excluding congressional employees from coverage under equal employment opportunity and labor legislation include the constitutional speech or debate clause immunity of Members under art. I, § 6, and the separation of powers doctrine.

Policy arguments advanced for excluding congressional employees from various statutory protections include a Member's need for flexibility in choosing staff who will be loyal and politically supportive of the Member's views and concern over Members' involvement in time-consuming litigation and administrative proceedings.

Both the House and Senate have acted recently to apply certain civil rights and labor laws to their employees, but the application of these laws to congressional staff differs from their application to other employees and some have argued that additional legislative action is needed. Congress might wish to consider a number of factors in weighing such legislation. (1) House and Senate employees are not covered by the rights and protections of the same laws. (2) To the extent that they are covered by certain laws, House employees are limited to in-House enforcement procedures with no right of judicial review and are entitled to the remedies specified in the House Fair Employment Practices Resolution. (3) Senate employees must follow the internal Senate enforcement procedure (but they do have a right of appellate judicial review) and are entitled to the remedies in certain statutory provisions incorporated in § 307(h) of the Civil Rights Act of 1991. (4) Because the House and Senate have acted so recently to provide internal enforcement mechanisms, it may be too soon to assess the viability of such procedures. (5) Constitutional restraints may limit Congress' ability to provide for administrative enforcement by an entity independent of Congress and to provide for judicial review.

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## CONGRESS' EXEMPTION FROM SELECTED MAJOR LEGISLATION: A LEGAL ANALYSIS

Congress has been widely criticized by the press, the President, and by many Members themselves for being exempt from various laws which apply to the private sector and/or to the executive branch. Articles and editorials on the subject have argued that such congressional exemptions place Congress "above the laws" that are applicable to other citizens or public officials.<sup>1</sup> This report provides an overview of selected major legislation from which Congress is exempt, the legal and policy arguments concerning application of these laws to Congress, and recent legislative actions that have extended some of these measures to Congress.

### INTRODUCTION

The charge that Congress exempts itself from the coverage of laws which, it is intimated, apply to everyone else is evidence of the recurrent quality of certain political subjects. With polls continuing to show that Congress has fallen in public esteem, the appearance of this old charge is not surprising.

The charge began catching on sometime after the passage of the Civil Rights Act of 1964, landmark legislation intended to safeguard the rights of racial and other American minorities. The charge leveled at Congress then and renewed in recent days is to the effect that none of the law's eleven titles apply to Congress. The Act is described as omnibus legislation or legislation that contains miscellaneous unrelated provisions. Among its various titles are protections applicable to the exercise of voting rights, to admission to public accommodations (hotels, restaurants, theaters and the like) and to public facilities (libraries and other facilities owned, operated, or managed by state and local governments), to equal educational opportunity, to giving the monitoring and clearing house Civil Rights Commission a new lease on life, to making sure that the benefits of federally funded programs are available to all Americans without distinction, to ensuring equal employment opportunities, to authorizing the maintenance of registration and voting statistics for law-supporting purposes, to giving the federal courts jurisdiction in civil rights cases, to setting up a mediating Community Relations Service, and to taking care of a number of relevant legal technicalities.

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<sup>1</sup> See, e.g., *A New Political Ball Game*, Wall Street Journal, Oct. 16, 1991, at p. A16; *'The Imperial Congress'—Living Above the Law*, 11 Nat'l Journal 911 (June 2, 1979); *Above the Law*, Wall Street Journal, Feb. 8, 1988, at p. 24; *Hill Workers Push for Job Protections Congress Denied by Labor Exemptions*, 36 Cong. Qtly 337 (Feb. 11, 1978).



The charge against Congress in the context of the 1964 Act is accurate in one sense, but misleading since aside from employment opportunities none of the other ten titles have any relation to Congress, which, for example, does not conduct elections, maintain covered public accommodations or public facilities, or parcel out funds to programs and activities the administration of which have to be free of the taint of various forms of discrimination. For a variety of reasons, relating to constitutional separation of powers and more practical concerns of employment associated with political and election filled positions, Congress has established a different mechanism for the prevention and elimination of discrimination in its own hiring practices. At the time of enactment in 1964 Congress employed roughly 8500 persons in contrast to the 40,000 persons more or less who worked for Congress in 1991.<sup>2</sup>

Congress does not *affirmatively and expressly* exclude itself from coverage by law. Generally speaking, laws apply to persons, natural and artificial legal persons, frequently on the basis of their status as farmers, bankers, corporations, labor unions and the like. As Congress does not fall into these and similar categories which comprise the overwhelming body of law spread over fifty titles of the United States Code, it is *impliedly* exempt from coverage. Here again it is relevant to observe that most laws have little or no relation to Congress as such. Also, it is worthy of note that laws relating to conduct in office, criminal and ethical, do apply to Members and a review of case annotations in connection with the speech or debate clause of the Constitution and select provisions of the Federal Criminal Code, for example, evidence no reluctance on the part of the Justice Department to prosecute Members in the proper circumstances.

In the consideration of this subject it is of some moment to keep in mind the nature of the institutions created by the Constitution and the intent of the Framers in making some of the choices they made with respect to them. In the governmental triad called forth by the Constitution, Congress passes the laws which the executive branch is duty bound to faithfully administer. It is in the execution or administration phase that government and governed come into close proximity and, accordingly, the point where Congress writes into law requirements intended to ensure fairness, equal treatment, and honest dealing. These requirements may appear to fall disproportionately on the regulators and the regulated to the total exclusion of Congress but that disparity is not the result of congressional elitism, but reflects how the system operates and was intended to operate. Administration of the law by the executive branch is the locus of government interaction with the public, and where safeguards are appropriate to check coercion or indifference and greed and abuse both by government and by benefitting elements of the public. It is also the executive branch with its two million plus employees, its responsibilities for running park lands and cultural-historical institutions to mention two of many public

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<sup>2</sup> Figures are based on the *Monthly Report of Federal Employment*, July, 1964, United States Civil Service Commission, and *Federal Civilian Workforce Statistics: Employment and Trends as of July 1991*, United States Office of Personnel Management.

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facilities, and as the dispenser of grants where the problems of discrimination and arbitrariness are most likely to occur and where they have to be prevented. In brief, Congress is excluded not by reason of having dealt itself out of the game, but simply because it is not usually a participant or in the picture when government and Americans come in contact.

Recall that the Constitution itself immunizes Congress and Members in connection with the performance of official activities in order to free both from intimidation and coercion by the other two branches of the government. For example, except in the cases of treason, felony, and breach of the peace, Members are privileged from arrest during their attendance at a congressional session and in going to and returning from a congressional session. Members, moreover, cannot be questioned in any other forum but their respective houses for anything said in speech or debate, a phrase that includes a variety of legislative activities in addition to making remarks on the floors of the Senate and the House of Representatives. Each house determines its own procedural rules and punishes its Members for disorderly behavior up to and including expulsion from the body. Likewise, each house is the judge of the elections, returns and qualifications of its own Members. In describing some of these privileges, notably the privilege of speech or debate, the Supreme Court has stated that it represented "the culmination of a long struggle for parliamentary supremacy. Behind these simple phrases lies a history of conflict between the Commons and the Tudor and Stuart monarchs during which successive monarchs utilized the criminal and civil law to suppress and intimidate critical legislators. Since the Glorious Revolution in Britain, and throughout United States history, the privilege has been recognized as an important protection of the independence and integrity of the legislature." In the American governmental structure the clause serves the additional function of reinforcing the separation of powers so deliberately established by the Founders.<sup>3</sup>

The executive branch enjoys similar privileges in order to perform assigned functions and duties. Notwithstanding the various developments of recent years it may remain good law that the President is largely immune from criminal process until first removed from office. One fairly recent development was Supreme Court confirmation of the power of the President to withhold vital state information and military secrets from Congress and the judicial branch. Mandatory court processes continue to be largely unavailable to force official actions that involve some modicum of discretion in their exercise. Also, despite some evolution in the law, government officials are immune from liability for anything done in the course of their duties. Insofar as policy-making positions and immediate staff are concerned the President is still at liberty to appoint and employ persons of his choosing.

The rationale for all of these privileges is the same. As indicated by the Supreme Court's previously quoted comments applicable to Member actions falling within the sphere of legitimate legislative activities, they represent hard won lessons of history. While all may be subject to abuse, that abuse is seen as

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<sup>3</sup> *United States v. Johnson*, 383 U.S. 169, 178 (1966).

less of a threat to liberty and freedom in the long run than impairment of separation of powers and its implement, the system of checks and balances. Another pair of considerations bearing on whether to extend legal requirements to one or more of the three branches of government relate to matters of efficiency and costs. Enforcement resources are limited and the question arises whether they should be targeted to major or all sources of a problem in pursuit of some absolute but remotely attainable ideal. Many laws, including Equal Employment Opportunity and Fair Labor Standards Act provisions represent a compromise between the ideal and the attainable in terms of enforcement resources. Similarly, in subjecting institutions and officials to liability for certain actions if that is the choice, it should be with awareness that more likely than not the costs will be borne by the taxpayer.

In summary, the broad charge that Congress in fact excludes itself from obligations and responsibilities it imposes on others overstates the case. Most laws appear to have little relation to what Congress does. In the context of the current debate, the charge appears to have plausible relevance to the selection of House and Senate employees. It is not unlikely that a scheme to enforce equal employment opportunity in both houses by sources outside the bodies can be constitutionally developed. The question then becomes whether in terms of potential adverse implications for legislative independence and increasing costs the effort is desirable. These and similar questions are appropriately handled by policy makers and the electorate.

### THE LAWS

The lists of major laws inapplicable to Congress that have appeared in various publications are not in complete agreement with each other. The following list is a composite, with some modifications, of lists that have appeared in various sources.<sup>4</sup> As the discussion below will make clear, development of such a list is problematic and, in any event, the composite list is definitely erroneous in some respects. Because of these considerations, the following composite list is not endorsed by CRS and any other such list should be viewed with caution.

- Civil Rights Act of 1964
- Equal Employment Opportunity Act of 1972
- Equal Pay Act
- Fair Labor Standards Act
- National Labor Relations Act
- Occupational Safety and Health Act
- Social Security Act
- Freedom of Information Act
- Privacy Act of 1974
- Age Discrimination in Employment Act of 1967
- Title IX of the Higher Education Act Amendments of 1972

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<sup>4</sup> The sources include the articles cited in note 1, *supra*.



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- Rehabilitation Act of 1973
- Age Discrimination Act of 1975
- Ethics in Government Act of 1978
- Civil Rights Restoration Act of 1988
- Americans with Disabilities Act of 1990

Some Members of Congress, the press and, in a speech on October 24, 1991, President Bush,<sup>6</sup> have criticized Congress for being exempt from these laws. Critics argue that lawmakers should be subject to the same rules and shoulder the same burdens as those in the private sector and in the executive branch. Critics sometimes also claim that public confidence in government is diminished if elected officials are exempt from certain laws and also suggest that Congress might not enact some laws if lawmakers were subject to their provisions.

Lists of laws inapplicable to Congress are problematic in several respects. (1) The lists and any accompanying commentary often fail to note that there are legal and policy arguments for not applying some laws to Congress. (2) Popular discussions of the subject often imply that Congress has taken specific action to exempt itself from various laws. Typically, however, a law which is not applicable to Congress does not include specific language *exempting* Congress. Rather, the fact that Congress is outside the scope of such a law is usually explicable by the fact that the pertinent definition of covered "employer" or "agency" does not include Congress. (3) The lists do not note that at least some of the cited laws (e.g., the National Labor Relations Act) are inapplicable to the executive and judicial branches as well as to Congress. Furthermore, some of the laws applicable to the private sector do not apply to all elements in the private sector. (4) Some of the lists contain inaccuracies, citing some laws which clearly do apply to Congress. (5) Although much of the criticism that has been levelled at Congress is focussed on congressional exemption from equal employment opportunity and labor laws, some of the lists include other laws (e.g., the Freedom of Information Act) and thus it is difficult to define the appropriate scope of any such list.

The first part of this report discusses the extent of congressional coverage under the laws on the composite list and legal and constitutional issues that might be raised by applying to the House and Senate some laws from which Congress is now exempt. The second part of the report synthesizes and analyzes the scope of coverage under three major groups of laws (civil rights laws, labor legislation, and laws providing rights of access to government information) which either do not apply to Congress or apply to Congress in a somewhat different manner than they apply to other covered entities. The laws in these three groups account for all but a few of the laws on the composite list and the question of the application of these laws to Congress has prompted the greatest debate.

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<sup>6</sup> The text of the President's speech is reprinted at 49 *Cong. Q'tly.* 3151 (Oct. 26, 1991). Excerpts from responses by Senator Mitchell, Senator Ford, and Speaker Foley to the President's speech are reprinted, *id.* at 3153.

### APPLICATION OF LAWS ON LIST TO CONGRESS

The Freedom of Information Act and the Privacy Act of 1974 do not apply to Congress. The Occupational Safety and Health Act of 1970 defines a covered "employer" so as to exclude the "United States," and thus Congress is not covered. Similarly, the National Labor Relations Act applies only to the private sector, and not to any branch of the federal government. Labor relations between the federal government and unions representing federal employees are covered by the Federal Labor-Management Relations Statute, which does not apply to Congress.<sup>6</sup> Some laws (Title IX of the Higher Education Act Amendments of 1972, the Age Discrimination Act of 1975, and the Civil Rights Restoration Act of 1988) apply to entities (such as state and local governments, schools, and school districts) that operate programs or activities with federal financial assistance and such laws would not seem directly relevant to congressional operations. Other laws (e.g., the Social Security Act of 1935) were at one time inapplicable to Congress but have been amended in recent years and now extend to both Houses. Title VI of the Ethics in Government Act of 1978,<sup>7</sup> providing for the appointment of an independent counsel in certain criminal cases, can be utilized in a case involving a Member under investigation, but it appears that the Justice Department has never applied for the appointment of an independent counsel in such a case.

Rights under certain laws (the Fair Labor Standards Act, the Equal Pay Act, Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973) have been extended to the employees of the House or Senate, but not to the employees of both Houses. With respect to these laws, the body to which the law applies has provided an internal enforcement procedure not involving an executive branch enforcement agency, and there is a right of judicial appeal for employees of the Senate, but not of the House. Rights and protections under the Civil Rights Act of 1964 and under the Americans with Disabilities Act of 1990 have been extended to the employees of both Houses, with separate House and Senate internal enforcement procedures and with a right of judicial appeal for employees of the Senate, but not the House.<sup>8</sup> In sum, it is impossible to

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<sup>6</sup> 5 U.S.C. §§ 7101-35.

<sup>7</sup> The Ethics in Government Act of 1978, which is often included on lists of laws said to be inapplicable to Congress, included seven titles. It appears that title VI is the focus of critics of Congress and, indeed, title VI was specifically mentioned by President Bush in his speech on Oct. 24, 1991.

<sup>8</sup> Certain provisions of H.R. 2, 102d Cong., the proposed Family and Medical Leave Act of 1991, as passed by the House (137 *Cong. Rec.* H9785-86 (daily ed. Nov. 13, 1991)), would apply to House and Senate employees with separate House and Senate internal enforcement procedures and without any right of judicial review for employees of either body. After the House passed H.R. 2, it agreed to a motion to strike out all after the enacting clause of a similar Senate bill, S. 5, 102d Cong., and insert in lieu thereof the provisions of H.R. 2, as passed by the House. H.R. 2 was then laid on the table. 137 *Cong.*



paint with a broad brush when discussing the application to the House and Senate of the various laws from which Congress is sometimes said to be exempt.

## RATIONALE FOR CONGRESSIONAL EXEMPTION

The exclusion of congressional employees from various laws may be explicable in part by legal considerations and in part by policy considerations.<sup>9</sup> The precise legal and policy rationale may depend on the law at issue, and most of the following discussion is focussed on the congressional exemption from various equal employment opportunity and labor laws since it is the exemption from such laws that has prompted the greatest criticism of Congress.

### Legal Rationale

The legal grounds often cited as the basis for excluding congressional employees from coverage under equal employment opportunity and other labor legislation include constitutional speech or debate clause immunity and the separation of powers doctrine.

The speech or debate clause, art. I, § 6, cl. 1, protects Members from being "questioned in any other place" for their legislative acts. Although decisions of the D.C. Circuit have held that the speech or debate clause immunizes Members for personnel actions regarding at least some congressional employees,<sup>10</sup> a recent Supreme Court decision involving judicial immunity for personnel actions

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*Rec. H9793* (daily ed. Nov. 13, 1991). S. 5, as passed by the Senate, would cover Senate but not House employees. (The version of S. 5 passed by the Senate is reprinted at 137 *Cong. Rec. H9787-93* (daily ed. Nov. 13, 1991).)

<sup>9</sup> The issues were discussed at some length in the recent Senate debate on the Civil Rights Act of 1990. See 136 *Cong. Rec. S9339-72* (daily ed. July 10, 1990).

<sup>10</sup> In *Browning v. Clerk, U.S. House of Representatives*, 789 F.2d 923, 929 (D.C.Cir.), *cert. denied*, 479 U.S. 996 (1986), the court of appeals ruled that personnel actions were protected by speech or debate immunity if the "employee's duties were directly related to the due functioning of the legislative process." (emphasis in the original) See also *Walker v. Jones*, 733 F.2d 923 (D.C.Cir.), *cert. denied*, 469 U.S. 1036 (1984). In an earlier ruling, the Supreme Court held that a female aide to a Member, who alleged that she had been discriminated against on the basis of sex when she was dismissed, had a cause of action under the due process clause of the fifth amendment and could sue the Member for monetary damages. *Davis v. Passman*, 442 U.S. 228 (1979). The Court, declining to rule on the question of speech or debate clause immunity since the lower court had not addressed the issue (442 U.S. at 235-236 n.11), remanded the case for further proceedings. The case was settled out of court, with no judicial resolution of the speech or debate issue.

raises doubts as to whether the Court would find speech or debate immunity applicable to employment actions by Members.<sup>11</sup> But if such immunity does apply to employment actions, then constitutional questions might be raised by allowing congressional employees to sue Members in federal court if they allege that they have been discriminated against on the basis of race, sex, etc.

The other legal concern, the separation of powers, arises since administrative enforcement of equal employment opportunity laws is generally vested in executive agencies. Allowing an executive agency to enforce employment discrimination laws against Members of Congress might arguably violate the Court's separation of powers standards by "disrupt[ing] the proper balance between the coordinate branches by prevent[ing]...[Congress] from accomplishing its constitutionally assigned functions."<sup>12</sup>

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<sup>11</sup> *Forrester v. White*, 484 U.S. 219 (1988) (in holding that state court judge did not have judicial immunity for firing probation officer, the Court advocated "functional" approach to immunity issue, and said it would "examine the nature of the functions with which a particular official or class of officials has been lawfully entrusted, and...seek to evaluate the effect that exposure to particular forms of liability would likely have on the appropriate exercise of those functions"). The *Forrester* principle was applied by the D.C. Circuit in *Gross v. Winter*, 876 F.2d 165 (D.C.Cir. 1989), a case involving legislative immunity in a suit filed against a member of the District of Columbia City Council. However, the court in *Gross* declined to address the question of whether special considerations applicable to Members of Congress might warrant the continuing application of the *Browning* standard, notwithstanding the decision in *Forrester*. *Id.* at 172.

Even if speech or debate clause immunity does apply to personnel actions by a Member, there is at least a possibility that Congress could, by statute, waive such immunity. The Supreme Court has specifically declined to rule on the issue of waiver (*United States v. Helstoski*, 442 U.S. 477, 492 (1979)), and there is little authority directly relevant to the possibility of waiver. However, the fact that the clause was intended "to protect the integrity of the legislative process by insuring the independence of individual legislators," *United States v. Brewster*, 408 U.S. 501, 507 (1972) (emphasis added), casts doubt on the ability of Congress to waive for individual Members a constitutional shield that protects individual as well as institutional interests. *But cf. Burton v. United States*, 202 U.S. 344, 367 (1906). The argument in favor of waiver may be stronger in circumstances where interests of individual Members would not be implicated.

<sup>12</sup> The test is stated in several rulings, including *Morrison v. Olson*, 487 U.S. 654 (1988). See also *Mistretta v. United States*, 488 U.S. 361 (1989). Assessment of the validity of the separation of powers argument is made difficult by the fact that, although there have been a number of Supreme Court rulings on separation of powers issues in recent years, they have in most instances been in the context of alleged violations by Congress of executive prerogatives. See, e.g., *Bowsher v. Synar*, 478 U.S. 714 (1986); *INS v. Chadha*, 462 U.S. 919 (1983).

## Policy Arguments for Congressional Exemption

Policy arguments advanced for excluding congressional employees from various statutory provisions include a Member's need for flexibility in choosing staff who will be loyal and politically supportive of the Member's views,<sup>13</sup> concern over Members' involvement in time-consuming litigation and administrative proceedings, and the possibility that a Member might be subjected to damaging publicity and political criticism of his personnel actions, even if allegations against him are eventually determined to be without merit.

## RECENT HOUSE ACTION EXTENDING COVERAGE UNDER CIVIL RIGHTS AND LABOR LAWS

Recent action has been taken in both bodies to apply certain equal employment opportunity and labor legislation to congressional employees.

### Fair Employment Practices Resolution

The House in the 100th Congress adopted the Fair Employment Practices Resolution (FEPR),<sup>14</sup> which specifies that "personnel actions affecting

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The potential for "disruption" can be seen in a scenario in which an employment discrimination complaint against a committee chairman (Rep. John Doe) is pending before an executive agency while the reauthorization bill for the agency is awaiting approval of Doe's committee. Is it possible that the agency might delay proceedings on the complaint by Doe's employee until after the reauthorization measure has cleared the committee to provide the agency with some leverage over Doe? Is it possible that Doe's vote on the reauthorization bill might be influenced by the complaint pending before the agency? Even if neither the agency nor Doe is actually influenced by the fact that, under the circumstances, each is in a position to assist the other (*i.e.*, the agency could dismiss the complaint in return for favorable action by Doe on its reauthorization measure), is there nonetheless the possibility that such a situation would create the appearance of impropriety?

<sup>13</sup> The issues were discussed at some length in the Senate debate on the Civil Rights Act of 1990. See 136 *Cong. Rec.* S9339-72 (daily ed. July 10, 1990). Cf. *Davis v. Passman*, 442 U.S. 228, 249-51 (1979) (Burger, C.J., dissenting).

<sup>14</sup> H. Res. 558, 100th Cong. The provisions of that resolution were continued in effect by H. Res. 15, 101st Cong., and were incorporated in the House rules as Rule LI at the start of the 102d Congress pursuant to H. Res. 5, 102 Cong. According to *Constitution, Jefferson's Manual, and Rules of the House of Representatives--One Hundred Second Congress*, H. Doc. No. 101-256, 101st Cong., 2d Sess. § 939 (1991), FEPR reiterated the prohibition on discrimination adopted in H. Res. 5, 94th Cong., which is included in the House Code of Official Conduct (House Rule XLIII, cl. 9).



employment positions in the House of Representatives shall be made free from discrimination based on race, color, national origin, religion, sex (including marital or parental status), handicap, or age."<sup>16</sup> That resolution goes on to state that "interpretations [of the language quoted in the preceding sentence] shall reflect the principles of current law, as generally applicable to employment."<sup>16</sup> Thus, FEPR at least arguably prohibits in House employment practices various types of discrimination covered under certain statutory provisions.

FEPR also establishes an Office of Fair Employment Practices (Office) and sets up a three-step procedure to be used by an employee who alleges that he or she has been the subject of discrimination in violation of the resolution. The steps are: (1) counseling and mediation; (2) formal complaint, hearing and review by the Office; and (3) final review of a decision of the Office by an eight-member review panel composed of four Members of the Committee on House Administration, two elected officers of the House, and two employees of the House. The Office or a review panel may order the following remedies: (a) monetary compensation, to be paid from the contingent fund of the House; (b) in the case of a serious violation, an additional payment from the clerk-hire allowance of a Member, or from personnel funds of a committee or other entity; (c) injunctive relief; (d) costs and attorney fees; and (e) employment, reinstatement, or promotion (with or without back pay).

The procedures and remedies under FEPR are exclusive except to the extent that other procedures might be available under the rules of the House or under the rules of the House Committee on Standards of Official Conduct. Thus, there is no involvement of either an executive agency or the courts. Some Members of the House wanted to offer amendments to S. 1745, 102d Cong., the Civil Rights Act of 1991,<sup>17</sup> to provide House employees with a right of judicial review.<sup>18</sup> However, the bill was considered under a closed rule which precluded amendments.<sup>19</sup>

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<sup>16</sup> H. Res. 558, 100th Cong., § 2(a).

<sup>16</sup> *Id.*, § 2(b).

<sup>17</sup> Pub. L. No. 102-166, 105 Stat. 1071.

<sup>18</sup> 137 *Cong. Rec.* H9505 (daily ed. Nov. 7, 1991).

<sup>19</sup> H. Res. 270, 102d Cong., 137 *Cong. Rec.* H9505 (daily ed. Nov. 7, 1991).

## Statutory Rights

Pursuant to the terms of the Fair Labor Standards Amendments of 1989,<sup>20</sup> the rights and protections under the FLSA apply to employees of the House of Representatives and to employees of the Office of the Architect of the Capitol.<sup>21</sup> (The Equal Pay Act<sup>22</sup> is codified in chapter 8 of Title 29, U.S. Code, as part of the FLSA of 1938<sup>23</sup> and thus it would seem that the 1989 legislation extended not only FLSA, but also the Equal Pay Act to House employees.) The rights and protections under the employment provisions of the Americans with Disabilities Act of 1990 (ADA)<sup>24</sup> and under title VII of the Civil Rights Act of 1964<sup>25</sup> apply to House employees.

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<sup>20</sup> Pub. L. No. 101-157, § 8, 103 Stat. 944 (1989).

<sup>21</sup> The legislative history of the Fair Labor Standards Amendments of 1989 explains that that legislation "extends protections under...[FLSA] to all employees of the U.S. House of Representatives and the Architect of the Capitol not otherwise exempted under the general provisions of the FLSA (e.g. section 13(a) exempts bona fide executives, administratives [sic], or professionals)." H. Rept. No. 101-260, 101st Cong., 1st Sess. 40 (1989). House employees are entitled only to the remedies and enforcement procedures spelled out in the Fair Employment Practices Resolution. Pub. L. No. 101-157, § 8, 103 Stat. 944 (1989). House Rule LI, cl. 2, states: "The Committee on House Administration shall have authority to issue rules and regulations applying the rights and protections of the Fair Labor Standards Act in the House, including, but not limited to, determination of exemption categories, permitting the use of compensatory time as compensation under the maximum work week provisions of the Act, describing the record keeping requirements and providing that such record keeping provisions do not apply with respect to employees exempted pursuant to the Committee's Rules and Regulations."

<sup>22</sup> 29 U.S.C. § 206(d).

<sup>23</sup> See 29 U.S.C. § 201.

<sup>24</sup> Pub. L. No. 101-336, § 509(b)(2), 104 Stat. 327, 374 (1990). The remedies and procedures made applicable under the terms of FEPR apply exclusively. *Id.* The rights and protections under the ADA in regard to matters other than employment also apply to the House, and for such matters remedies and procedures to be established by the Architect of the Capitol apply exclusively. *Id.*, § 509(b)(3).

<sup>25</sup> Rights under the Civil Rights Act of 1964 were extended to House employees by § 117(a) of the Civil Rights Act of 1991. The remedies and procedures under FEPR apply exclusively.



## RECENT SENATE ACTION EXTENDING COVERAGE UNDER CIVIL RIGHTS LAWS

### Americans With Disabilities Act

Certain equal employment rights were accorded to Senate employees pursuant to the ADA. Subsection 509(a) of that law extended to Senate employees the rights and protections provided pursuant to several equal employment opportunity laws<sup>26</sup> and established a procedure for internal enforcement by the Senate Select Committee on Ethics. No judicial review was permitted under § 509(a).

### Civil Rights Act of 1991

The paragraphs of subsection 509(a) of the ADA that extended certain statutory rights to Senate employees and established an enforcement procedure were repealed by § 315 of the Civil Rights Act of 1991.<sup>27</sup> In lieu of the rights granted by § 509(a) of the ADA, § 302 of the 1991 civil rights measure specified:

All personnel actions affecting employees of the Senate<sup>28</sup>  
shall be made free from any discrimination based on--

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<sup>26</sup> Section 509(a)(2) extended to Senate employees the rights and protections provided under the ADA itself, the Civil Rights Act of 1990 (S. 2104, 101st Cong.), the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973.

<sup>27</sup> Title III of the Civil Rights Act of 1991, which enacted provisions relating to Senate employees, presidential appointees, and certain employees of persons who hold state or local elective office, may be cited as the Government Employee Rights Act of 1991 (§ 301).

<sup>28</sup> -- The prohibition in § 302 on discrimination applies to personnel actions affecting "employees of the Senate," defined in § 301(c) to include "any employee whose pay is disbursed by the Secretary of the Senate," "any employee of the Architect of the Capitol who is assigned to the Senate Restaurants or to the Superintendent of the Senate Office Buildings," an applicant for such a position that will last at least 90 days, or a former employee.

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(1) race, color, religion, sex,<sup>29</sup> or national origin, within the meaning of section 717 of the Civil Rights Act of 1964 (42 U.S.C. § 20003-16);

(2) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. § 633a); or

(3) handicap or disability, within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. § 791) and sections 102-104 of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12112-14).<sup>30</sup>

However, with respect to many employees (those on the staff of the Senate leadership, of committees, or of Senators, and those officers or employees of the Senate elected by the Senate or appointed by a Member), § 316 of the 1991 legislation made it clear that it is permissible to consider the employee's party affiliation, domicile, and political compatibility with the employing office in making employment decisions.

The Civil Rights Act of 1991 also established a Senate Office of Fair Employment Practices and provided a four-step internal Senate enforcement procedure consisting of: (a) counseling (§ 305 of the Act); (b) mediation (§ 306); (c) formal complaint and hearing by a hearing board composed of three independent hearing officers, who are not Senators or officers or employees of

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<sup>29</sup> Before final action on the Civil Rights Act of 1991, the Senate adopted a resolution condemning sexual harassment. The resolution stated that "it is the sense of the Senate that the Senate does not tolerate or condone sexual harassment in government, private sector, or congressional workplaces, and that the Senate should consider appropriate changes to the laws of the United States and the rules of the Senate to prevent sexual harassment." S.Res. 209, 102d Cong., 137 *Cong. Rec.* S15290-91 (daily ed. Oct. 28, 1991).

<sup>30</sup> Section 509(a) of the ADA had extended rights and protections under certain laws to employment by the Senate. Section 302 of the Civil Rights Act of 1991 took a somewhat different approach, prohibiting in Senate personnel actions discrimination on various grounds (race, color, religion, sex, national origin, age, handicap, or disability) within the meaning of specific sections of the same laws whose rights and protections had been granted to Senate employees under the ADA. Unaffected by § 315 of the 1991 Civil Rights Act was the paragraph of § 509(a) of the ADA that extended to the Senate the rights and protections under that Act in regard to matters other than employment, and that directed the Architect of the Capitol to establish the exclusive remedies and procedures to be used with respect to such rights and remedies. Senator McCain recently criticized the Senate for not fully complying with the public access provisions of the ADA, and requested the Senate Committee on Rules and Administration to promulgate new guidelines to ensure Senate compliance with the law. 138 *Cong. Rec.* S2620-21 (daily ed. Mar. 3, 1992).

the Senate (§ 307); and (d) review of a hearing board decision by the Senate Select Committee on Ethics (§ 308).

In a case where the prohibition in § 302 on discrimination has been violated, § 307(h) states that the hearing board shall order such remedies as would be appropriate under specified statutory provisions and may also order the award of compensatory damages pursuant to referenced statutes. However, the board may not award punitive damages.<sup>31</sup> After the various steps in the internal enforcement procedure have been followed, judicial review by the U.S. Court of Appeals for the Federal Circuit is available (§ 309).<sup>32</sup>

The 1991 Civil Rights Act also: (a) specified that a Member of the Senate is to reimburse the appropriate federal account for any payment made on his behalf out of such account for an unfair employment practice judgment (§ 323); (b) reaffirmed the commitment of the Senate to Senate Rule XLII, prohibiting discrimination in employment, and specified that the Senate Select Committee on Ethics retains authority pursuant to S. Res. 338, 88th Cong., to take disciplinary action against a Member, officer, or employee of the Senate for a violation of that rule (§ 319); and (c) expressed the sense of the Senate that

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<sup>31</sup> Section 307(h) provides:

If the hearing board determines that a violation has occurred, it shall order such remedies as would be appropriate if awarded under section 706(g) and (k) of the Civil Rights Act of 1964 (42 U.S.C. § 2000e-5(g) and (k)), and may also order the award of such compensatory damages as would be appropriate if awarded under section 1977 and section 1977A(a) and (b)(2) of the Revised Statutes (42 U.S.C. § 1981 and 1981A(a) and (b)(2)). In the case of a determination that a violation based on age has occurred, the hearing board shall order such remedies as would be appropriate if awarded under section 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. § 633a(c)). Any order requiring the payment of money must be approved by a Senate resolution reported by the Committee on Rules and Administration. The hearing board shall have no authority to award punitive damages.

<sup>32</sup> Senate deliberations on the question of judicial review included careful consideration of the constitutional issues involved, including speech or debate clause immunity and the separation of powers. See, e.g., 137 *Cong. Rec.* S15367-90 (daily ed. Oct. 29, 1991). By a vote of 76 to 22, the Senate failed to sustain a constitutional point of order against Title III of the bill. The point of order suggested that Title III proposed "an unconstitutional intrusion into the affairs of the executive and legislative branches...." 137 *Cong. Rec.* at S15390.

legislation should be enacted to provide the same or comparable rights and remedies as granted under Title III to employees of instrumentalities of Congress not provided with such rights and remedies (§ 318).

## **ANALYSIS OF CONGRESSIONAL COVERAGE UNDER CIVIL RIGHTS AND LABOR LAWS**

Although both the House and the Senate have taken major steps in recent years to extend various equal employment opportunity and labor laws to their employees, the application of these laws to congressional employees differs from their application to other employees and some have argued that additional legislative action is needed. Congress might wish to consider several factors in weighing such legislation. (1) House and Senate employees are not covered by the rights and protections of the same laws, each body having acted separately to extend the coverage of some laws to its employees. Some of the laws on the composite list<sup>33</sup> are not applicable to employees of either body. (2) To the extent that they are covered, House employees are entitled to the rights and protections, but not to the remedies and procedures, of several equal employment opportunity and labor laws. House employees are limited to in-House enforcement procedures with no right of judicial review and are entitled to the remedies specified in the House Fair Employment Practices Resolution. (3) Senate employees must follow the internal Senate enforcement procedure (but they do have a right of appellate judicial review) and are entitled to the remedies in certain statutory provisions incorporated in § 307(h) of the Civil Rights Act of 1991.<sup>34</sup> (4) Because the House and Senate have acted so recently to provide internal enforcement mechanisms, it may be too soon to assess the viability of such procedures. (5) Constitutional restraints may limit Congress' ability to provide for administrative enforcement by an entity independent of Congress and to provide for judicial review.

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<sup>33</sup> See *supra* pp. 4-5.

<sup>34</sup> In the debate on the rule providing for consideration in the House of the Senate-passed version of the Civil Rights Act of 1991, several Members criticized the measure because it did not provide House or Senate employees with a right to a jury trial (the Senate bill provided only for an appellate judicial proceeding for Senate employees) or with a right to punitive damages. Furthermore, these Members objected to the fact that the bill was considered in the House under a closed rule which did not permit amendments to extend to House employees a right of appellate judicial review and to make House Members personally liable for payment of awards in discrimination cases. See, e.g., remarks of Rep. Sensenbrenner (137 *Cong. Rec.* H9508 (daily ed. Nov. 7, 1991)). For criticism by President Bush of the Senate-passed version of the bill, see 137 *Cong. Rec.* S15455 (daily ed. Oct. 30, 1991)(reprinting letter of Oct. 30, 1991, from the President to Senator Nickles).



## APPLICATION OF STATUTES OTHER THAN CIVIL RIGHTS AND LABOR LAWS TO CONGRESS

### Ethics in Government Act of 1978

It is inaccurate to state that Members of Congress are exempt from the Ethics in Government Act of 1978.<sup>35</sup> The principal provisions of the Act, as passed, required annual, public financial disclosure from Members of Congress and certain officials in the legislative, executive and judicial branches of the federal government (Titles I, II, and III); established a central ethics office, the Office of Government Ethics, to coordinate and oversee ethics interpretations and disclosure for the executive agencies (Title IV); amended the "revolving door," post-government employment provision of federal law<sup>36</sup> (Title V); established the mechanisms for the appointment of an "independent counsel" (originally "special prosecutor") when there may be inherent conflicts of interest in Justice Department prosecutions (Title VI); and established the office of Senate Legal Counsel (Title VII). Later additions to the Ethics in Government Act of 1978 added, for example, government-wide restrictions on outside earned income, outside employment, and honoraria, to which Members of Congress are also subject.<sup>37</sup>

The provisions for the appointment of an "independent counsel" in Title VI of the Act<sup>38</sup> have been cited by some as exempting Members of Congress. Under amendments to the law in 1982, however, the Attorney General of the United States is authorized to ask for the appointment of an independent counsel concerning violations of federal law by "any person," not excluding a Member of Congress, when the Attorney General determines that it would involve a "personal, financial or political conflict of interest" for the Attorney General or the Department of Justice to investigate or prosecute the matter.<sup>39</sup> No Attorney General has as yet requested an independent counsel for a Member of Congress, perhaps because there has been seen to exist no inherent, structural or practical "conflict of interest" for the Department of Justice to pursue a prosecution of a Member of Congress. Under the structure of our governmental system, with its three branches of government and separation of powers among them, the decisions and discretion of the Department of Justice and the Attorney General are in practice, as well as in theory, independent of

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<sup>35</sup> Pub. L. No. 95-521, as amended.

<sup>36</sup> 18 U.S.C. § 207.

<sup>37</sup> Note, for example, Ethics Reform Act of 1989, Pub. L. No. 101-194, § 601; Legislative Branch Appropriations Act, 1992, Pub. L. No. 102-90, § 6(b).

<sup>38</sup> For background discussion, see Maskell, *Overview of the Independent Counsel Provisions of the Ethics in Government Act*, CRS Rept. No. 92-128 (Jan. 30, 1992).

<sup>39</sup> 28 U.S.C. § 591(c).



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day-to-day congressional control or supervision. Members of Congress, as well as all of those in the *legislative* and *judicial* branches of government, are therefore not "automatically" covered under the independent counsel triggering mechanisms, since there is no inherent or structural conflict of interest for the Department of Justice to investigate and prosecute Members of Congress, as there might be for the Attorney General to investigate and prosecute himself, his superior or certain of his colleagues, to whom the automatic triggering provisions of the independent counsel law narrowly apply.<sup>40</sup>

### Social Security Act

The coverage provisions for Federal Government employees under Title II of the Social Security Act<sup>41</sup> are generally set forth in § 210(a)(5) of that Act.<sup>42</sup> "Employment" for purposes of Social Security coverage includes service performed as President or Vice President of the United States (§ 210(a)(5)(C)); specified Executive Schedule positions;<sup>43</sup> noncareer appointees in the Senior Executive Service; and presidential appointees at or above the rate of pay for level V of the Executive Schedule (§ 210(a)(5)(D)); and service performed as a Member of Congress (§ 210(a)(5)(F)), as well as service in the legislative branch of the federal government except for those individuals who, as of December 31, 1983 were covered under the Civil Service Retirement System (§ 210(a)(5)(G)). Thus, Social Security coverage of executive branch and legislative branch employees parallels the coverage requirements of other federal civilian employees.

There is one difference in the calculation of Social Security benefits between the legislative and executive branch employees listed above in § 210(a)(5) and other federal civilian employees. Under the Social Security Amendments of 1983,<sup>44</sup> Social Security benefits are reduced (the "windfall benefit" formula) for individuals who also have pensions from work that was not covered by Social Security, such as work covered under the Federal Civil Service Retirement System. This "windfall benefit" formula, however, does not apply to those legislative and executive branch employees who were mandatorily covered by Social Security on January 1, 1984 (§ 215(a)(7)(E)(i)).

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<sup>40</sup> See H.R. Rept. No. 100-316, 100th Cong., 1st Sess. 33 (1987).

<sup>41</sup> 42 U.S.C. § 402 *et seq.*

<sup>42</sup> 42 U.S.C. § 410(a)(5).

<sup>43</sup> The positions are listed in 5 U.S.C. §§ 5312-5317.

<sup>44</sup> Pub. L. No. 98-21.

## Freedom of Information Act

The Freedom of Information Act (FOIA)<sup>45</sup> does not now apply to Congress, and congressional coverage under this measure would raise issues that are somewhat different than those posed by the application to Congress of civil rights, labor, or other laws discussed above.<sup>46</sup>

The FOIA provides a statutory right of access to a wide range of government information so as to allow citizens to be informed about government affairs. Even though not covered by the Act, Congress makes available to the public an extensive amount of information about congressional activities, including the *Congressional Record*, committee reports and hearings, etc. But not all documents relating to legislation are generally accessible, certain administrative records of the House and Senate are not publicly available, and certain other congressional correspondence and documents are not routinely disclosed.

Litigants in civil cases, prosecutors and defendants in criminal actions, journalists, and other citizens have at times sought the disclosure of various congressional documents that were not generally available to the public. Such requests and demands, although often complied with by both bodies, implicate the privileges of the House and Senate.<sup>47</sup> These privileges have roots in the Constitution, principally the speech or debate clause, but also the publication clause<sup>48</sup> and the separation of powers doctrine.

It might be argued that Congress should be subject to the same information disclosure requirements imposed on the executive branch and that the purpose of the Act—"ensur[ing] an informed citizenry, vital to the functioning of a democratic society"<sup>49</sup>--would be served by congressional coverage. On the other hand, application to Congress might impinge on Congress' privilege with regard to its papers, pose administrative burdens on congressional offices, and involve Congress in law suits filed by persons appealing the denial of their FOIA

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<sup>45</sup> For an overview of the Act, see *infra* notes 108-124 and accompanying text.

<sup>46</sup> The questions presented by extension of the FOIA to Congress will be analyzed in detail in a forthcoming CRS report, and they are addressed only in a cursory fashion here. Although the discussion here is limited to the FOIA, it is noted that similar issues would seem to be raised by proposals to extend the Privacy Act of 1974 to Congress.

<sup>47</sup> See Kaye, *Congressional Papers and Judicial Subpoenas*, 23 U.C.L.A. L. Rev. 57 (1975); Kaye, *Congressional Papers, Judicial Subpoenas, and the Constitution*, 24 U.C.L.A. L. Rev. 523 (1977).

<sup>48</sup> Art. I, § 5, cl. 3.

<sup>49</sup> *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978).

requests. Finally, it might be noted that not all congressional records would necessarily be subject to disclosure under the FOIA since they might come within one or more of the Act's nine exemptions.<sup>60</sup>

## OVERVIEW OF THE LAWS AND THEIR APPLICATION OUTSIDE CONGRESS

### EQUAL EMPLOYMENT OPPORTUNITY LAWS

#### **Civil Rights Act, Age Discrimination in Employment Act, Americans With Disabilities Act, Rehabilitation Act**

Federal protections against workplace discrimination are embedded in a range of federal laws that apply to the private sector as well as employment in federal, state, and local government. Title VII of the 1964 Civil Rights Act, as amended in 1972, makes it unlawful for employers, employment agencies and labor organizations to discriminate against their employees or applicants for employment (or members) because of race, color, religion, sex, or national origin. All forms of employment and pre-employment bias are forbidden, including discrimination in hiring, discharge, promotion, layoff and recall, compensation and fringe benefits, classification, training, apprenticeship, referrals for employment, union membership, and all other "terms, conditions, or privileges of employment." The Age Discrimination in Employment Act (ADEA) makes it unlawful for employers, employment agencies, and labor organizations to discriminate on the basis of age against "individuals who are at least 40 years of age." In terms of coverage and substantive protection, the ADEA draws upon Title VII law and precedent but substitutes "age" for the classes of individuals protected by the former.

Private employers and labor organizations are covered by Title VII and the ADEA if they meet certain minimal requisites in terms of employee or membership size: 15 employees or members for the former; 20 employees or 25 members under the latter. State and local governmental employees are covered, and a previous exclusion for personal staffs and "policymaking" advisors of state elected officials was eliminated by the recently enacted Civil Rights Act of 1991.<sup>61</sup> Such employees of state elected officials may now file a complaint with the EEOC which is to "determine whether a violation has occurred" and issue an order providing "appropriate" relief.

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<sup>60</sup> 5 U.S.C. § 552(b).

<sup>61</sup> Section 321 of the Civil Rights Act of 1991. See also 42 U.S.C. § 2000e(f); 29 U.S.C. § 630(f). For background on the 1991 legislation, see Dale, *The Civil Rights Act of 1991: A Legal History and Analysis*, CRS Rept. No. 92-85A (Jan. 10, 1992).

The Equal Employment Opportunity Act of 1972 first added § 717 to Title VII, providing for coverage of federal employees as follows:

All personnel actions affecting employees or applicants for employment. . . in executive agencies as defined in section 105 of title 5. . . and in those units of the legislative and judicial branches of the Federal government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on race, color, religion, sex, or national origin.<sup>62</sup>

Subsequently, the ADEA was amended to include an identical provision for coverage of federal employees in executive agencies and competitive service personnel in the legislative and judicial branches.

Although § 717 has been judicially viewed as largely coextensive in substantive scope with Title VII as applied to the private and other public sector employment, certain limitations on coverage of congressional and executive branch employees persist under that law. For example, by virtue of the "competitive service" qualification in § 717, House and Senate staff (and many other legislative and judicial branch employees) were until recently excluded from coverage of Title VII and the ADEA. Similarly, it appeared that the White House Office, and other entities within the Executive Office of the President, might not be "executive branch agencies" as that term was defined in § 717.<sup>63</sup>

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<sup>62</sup> 42 U.S.C. § 2000e-16(a). Note the distinction in coverage between executive branch employers, on the one hand, and the legislative and judicial branches, on the other. Only competitive service personnel in the latter are covered, while all employees of executive branch agencies, as defined in the relevant provisions of title 5 U.S.C., come within the protective purview of the statute. See, e.g., *Lawrence v. Staats*, 640 F.2d 427 (D.C.Cir. 1981). In addition, civil rights coverage is extended by the statute to civilian personnel employed by the "military departments," defined by referenced code provision as the Army, Navy, and Air Force Departments, as well as the Library of Congress and other specifically denominated agencies.

<sup>63</sup> As noted, "executive agencies" were defined in § 717 by reference to a definition found in 5 U.S.C. § 105 to include "an Executive department, a Governmental corporation, and an *independent establishment*." "Executive department" and "governmental corporation" were defined, in turn, to include the major cabinet departments (5 U.S.C. § 101) and federally chartered corporations (5 U.S.C. § 102), neither of which may appropriately be applied to the White House Office. This leaves "independent establishment" which, as defined in 5 U.S.C. § 104, means "an establishment in the executive branch...which is not an Executive Department, military department, Government corporation...or part of an independent establishment." On its face, this language seems sufficiently broad to comprehend all other parts of the executive branch not specifically excluded. However, the White House Office would not, in any practical sense, seem "independent" of the President or the



Title III of the Civil Rights Act of 1991 (Government Employee Rights) partially addressed some of these coverage issues. The new law not only extends Title VII and the ADEA, but the Americans with Disabilities Act (ADA) as well, to all Senate employees and to presidential appointees in the executive branch, including White House Office employees. Excluded from coverage, however, are Cabinet officers, the uniformed military, and others whose appointments are subject to Senate confirmation. For Senate employees, a procedure is established that includes counseling, mediation, and a hearing before a three-member independent panel which is empowered to order all "appropriate" Title VII remedies, including compensatory damages. Any party may then seek review of hearing board decisions by the Select Committee on Ethics or the U.S. Court of Appeal for the Federal Circuit.<sup>54</sup> Executive branch employees now covered by § 717, the ADEA, or ADA would take their complaints to the EEOC or a similar entity to be established by the President for initial determination with a right to appeal to the federal circuit court.<sup>55</sup> Another provision requires the President or Senate members to reimburse the Treasury within 60 days for any damages paid out as the result of their discriminatory actions.<sup>56</sup>

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Executive Branch as that term is ordinarily applied to the independent federal regulatory agencies.

Although perhaps not legally dispositive, further indication may be found in the U.S. Government Manual, the official handbook of the federal government, published by the Office of the Federal Register, National Archives and Records Service, General Services Administration. *The United States Government Manual 1990/91*; see also 2 Fed. Proc., L.Ed. § 2:273 (1981). The Manual distinguishes the "Executive Office of the President" and "White House Office" from "Independent Establishments and Government Corporations" in its description of the organization and structure of the U.S. Government. As might be expected, the latter category consists of major federal regulatory and public service agencies--ranging from the Federal Communications Commission to the Farm Credit Administration--which, while part of the executive branch and subject to presidential appointments for their top officials, otherwise exercise regulatory powers independent of the President or other executive branch officials. The White House Office does not appear on this list of independent establishments. In other contexts, federal courts have relied on the Manual's classification to determine the status of governmental entities for purposes of application of federal law. *E.g., Flight International Group, Inc. v. Federal Reserve Bank of Chicago*, 583 F. Supp. 674, 680 (N.D.Ga. 1984). Accordingly, the White House Office, and similar entities within the Executive Office of the President, would probably not constitute an "executive agency" for purposes of § 717 coverage.

<sup>54</sup> §§ 301-319 of the Civil Rights Act of 1991. For further discussion of provisions of this legislation applicable to the Senate and House, see *supra* notes 25, 27-32 and accompanying text.

<sup>55</sup> *Id.*, § 320.

<sup>56</sup> *Id.*, § 323.



The EEOC is responsible for administrative enforcement of Title VII and the ADEA with respect to private and state and local governmental employment. It is empowered to investigate and conciliate charges of unlawful discrimination and where voluntary settlement efforts fail, may institute court action to secure compliance by private employers. However, civil actions against "a government, governmental agency, or political subdivision" cannot be initiated by the EEOC but must be referred to the Attorney General who makes the final litigation decision. Private civil actions may also be brought against private or public employers under both statutes following an EEOC determination.

Different administrative and judicial enforcement procedures are provided by § 717 to eliminate discrimination in the federal service. The EEOC is empowered to enforce federal sector EEO by "necessary and appropriate" rules, regulations, and orders and "through appropriate remedies, including reinstatement or hiring of employees with or without backpay." Each federal department and agency, in turn, is required to prepare annually a "national and regional equal employment opportunity plan" containing internal grievance procedures, programs for upgrading personnel, and related matters for Commission review and approval. The primary administrative forum for investigation, conciliation, and resolution of federal employee charges is the agency against whom the charge is brought. Agency action on discrimination charges are appealable to the EEOC which is authorized to grant appropriate relief. Private civil action under Title VII is also available following the Commission's determination.

Under the terms of the Rehabilitation Act of 1973, "each department, agency, and instrumentality. . .in the executive branch" is also required to submit to the EEOC and to the Interagency Committee on Handicapped Employees an affirmative action program plan for the hiring, placement, and advancement of handicapped persons. The plan is subject to approval by the EEOC.<sup>57</sup> Similarly, the Americans with Disabilities Act of 1990 (ADA)<sup>58</sup> provides that no covered entity

shall discriminate against a qualified individual with a disability because of the disability of the individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms conditions and privileges of employment.<sup>59</sup>

Procedures and remedies for enforcement of the ADA are those set forth by the relevant Title VII provisions that are incorporated by reference in § 107 of the

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<sup>57</sup> 29 U.S.C. § 791(b).

<sup>58</sup> Pub. L. No. 101-336, 104 Stat. 328 (1990).

<sup>59</sup> ADA §102(a), 42 U.S.C. § 12112(a).

ADA.<sup>60</sup> Specifically exempted from coverage, however, are "the United States, a corporation wholly owned by the government of the United States, or an Indian tribe,"<sup>61</sup> but, as noted above, federal departments and agencies remain subject only to § 501 of the Rehabilitation Act.<sup>62</sup> In addition, § 509 of the ADA expressly extends coverage to Congress and "instrumentalities" of the legislative branch.<sup>63</sup>

### **Nondiscrimination in Federally Assisted Programs**

Another series of federal laws prohibit discrimination by public and private entities that operate programs or activities with financial assistance provided by the federal government. Typically, these laws provide for "institution-wide" coverage of federal aid "recipients," whether state and local governmental agencies or private sponsors, who must refrain from discrimination in all aspects of any "program or activity" operated for benefit of the public. Perhaps most prominent is Title VI of the 1964 Civil Rights Act, which prohibits discrimination based on race, color, or national origin in "any program or activity receiving federal financial assistance."<sup>64</sup> Somewhat narrower in breadth are Title IX of the Education Amendments Act of 1972,<sup>65</sup> which targets discrimination based on sex and blindness in education, and the 1975 Age Discrimination Act, banning all arbitrary age distinctions in the operation of federally assisted programs. The Rehabilitation Act of 1973 also prohibits discrimination on the basis of handicap in a variety of contexts. The Civil Rights Restoration Act of 1988 reversed the Supreme Court decision in the *Grove City College* case and restored institution-wide coverage of each of these laws. Congress there defined the term "program or activity" for purposes of coverage to include the entire state or local government department or agency, school or school district, or other public or private entity through which federal financial assistance is delivered to its "ultimate beneficiaries."

Generally, the executive departments and agencies that administer federal grant-in-aid programs enforce these laws *via* administrative procedures that may lead to termination or refusal to grant or continue assistance or other authorized means. Judicial review of final agency enforcement actions is also authorized. In the Title VI context, however, the law has been held to "cover only those situations where federal funding is given to a non-federal entity

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<sup>60</sup> 42 U.S.C. § 12117.

<sup>61</sup> 42 U.S.C. § 12111(5)(B).

<sup>62</sup> 29 U.S.C. § 791(b).

<sup>63</sup> See *supra* notes 24, 26-27 and accompanying text.

<sup>64</sup> 42 U.S.C. § 200d *et seq.*

<sup>65</sup> 20 U.S.C. § 1681 *et seq.*

which, in turn, provides assistance to the ultimate beneficiary."<sup>66</sup> That is, only "recipients" of federal financial assistance at the state and local level, or private sponsors of federally aided programs, are subject to nondiscrimination requirements imposed by these laws and federal regulations thereunder. The courts have not usually considered federal departments and agencies that Act as conduits of federal largesse to be covered except with respect to injunction actions to compel their enforcement of nondiscrimination requirements against recipients and programs sponsors. *A fortiori* as originator under the Constitution of all federal appropriations, no court to date has viewed Congress a "recipient" of federal financial assistance subject to application of these laws.

## LABOR AND EMPLOYMENT LAWS<sup>67</sup>

### National Labor Relations Act, Federal Labor-Management Relations Statute

The National Labor Relations Act (NLRA), as amended by Labor Management Relations Act, 1947,<sup>68</sup> guarantees the right of employees to form, join, and assist labor organizations, to bargain collectively through representatives of their own choosing and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and to refrain from such activities. The Act also protects the right to strike. The Act applies to all private employers which are in or affect interstate commerce. Under the NLRA, the General Counsel of the National Labor Relations Board has final authority to investigate charges and to issue complaints of unfair labor practices.<sup>69</sup>

The Act's definition expressly provides that the term employer "shall not include the United States or any wholly owned Government corporation."<sup>70</sup> The Act therefore does not apply to Congress.

The Federal Labor-Management Relations Statute (Title VII of Civil Service Reform Act of 1978)<sup>71</sup> grants federal employees the right to form, join, or assist labor organizations as collective bargaining representatives, or to refrain from

<sup>66</sup> *Soberal-Perez v. Heckler*, 717 F.2d 36 (2d Cir. 1983).

<sup>67</sup> For an overview of historical and policy considerations relating to the application of labor laws to entities in the federal government, see Economics Division, *Labor Laws: Exemption or Exclusion of the White House, Supreme Court, and Congress*, CRS Rept. No. 91-799E (Nov. 14, 1991).

<sup>68</sup> 29 U.S.C. §§ 141-87.

<sup>69</sup> 29 U.S.C. § 153(d).

<sup>70</sup> 29 U.S.C. § 152(2).

<sup>71</sup> 5 U.S.C. §§ 7101-7135.

such activities, and to engage in collective bargaining with respect to conditions of employment through such representatives. Federal employees do not have the right to strike. The General Counsel of the Authority has final authority to investigate charges and to issue complaints of unfair labor practices.<sup>72</sup>

The Act defines an "agency" as an Executive agency (including a non-appropriated fund instrumentality), other than the Federal Bureau of Investigation, Central Intelligence Agency, National Security Agency, Tennessee Valley Authority, Federal Labor Relations Authority, or Federal Service Impasses Panel. Among legislative branch agencies, the term "agency" includes the Library of Congress (LoC), and the Government Printing Office (GPO), but expressly excludes the General Accounting Office. The statute therefore does not apply to any employees in the legislative branch other than employees of GPO and LoC.

### Occupational Safety and Health Act

The Occupational Safety and Health Act (OSHA)<sup>73</sup> requires each covered employer to provide a place of employment free from recognized hazards that may cause death or serious physical harm, and to comply with all occupational safety and health standards promulgated under the Act. The Act is intended to protect employees from personal injuries and illnesses resulting from work situations. Both the Secretary of Labor and the Occupational Safety and Health Review Commission perform duties related to the enforcement of the Act.<sup>74</sup> The Secretary may inspect work premises, investigate, and issue citations to employers for statutory violations.

Where the employer contests the citation or where the employee alleges that the period of time specified in the citation for the abatement of the violation is unreasonable, a hearing may be held by the Commission.<sup>75</sup> The Secretary or any person adversely affected or aggrieved by an order of the Commission issued following a Commission hearing may seek judicial review.<sup>76</sup> OSHA does not create a private right of action for injured employees or their employees against employers or third parties; no private cause of action is implied under the Act or under federal common law. The enforcement provisions and regulations of OSHA "are sufficiently comprehensive to make

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<sup>72</sup> 5 U.S.C. § 7104(f).

<sup>73</sup> 29 U.S.C. §§ 651-78.

<sup>74</sup> 29 U.S.C. §§ 655-59.

<sup>75</sup> 29 U.S.C. § 659(c).

<sup>76</sup> 29 U.S.C. § 660.



such a private right of action unnecessary to effectuate the congressional policy underpinning the substantive provisions of the statute."<sup>77</sup>

OSHA applies to "any person engaged in a business affecting commerce who has employees." Under the Act's definitions, the term employer "does not include the United States."<sup>78</sup> OSHA therefore does not apply to Congress. Although the United States is specifically excluded from the Act's definition of "employer," the Act makes it "the responsibility of the head of each federal agency to establish and maintain an effective and comprehensive occupational safety and health program which is consistent with" the national standards promulgated by the Secretary under the Act.<sup>79</sup> An executive order states that this statutory provision is applicable to all federal employees and directs the Secretary to consult with the heads of all agencies in the legislative and judicial branches to help them develop safety and health programs.<sup>80</sup> There is no analogous program for Congress, nor for the Executive Office of the President.

### Fair Labor Standards Act, Equal Pay Act

The Fair Labor Standards Act of 1938 (FLSA),<sup>81</sup> as amended by the Portal to Portal Act,<sup>82</sup> requires all covered employers to pay the statutory minimum wage and time-and-one-half for overtime in excess of 40 hours in one week. The Act prohibits oppressive child labor, as that term is defined in Child Labor Orders by the Secretary of Labor. Section 6(d) of the Act is the Equal Pay Act of 1963.<sup>83</sup> The FLSA is enforced by the Wage and Hour Division in the Labor Department. The Office of Personnel Management (OPM) enforces the Act for the executive branch, and the Librarian of Congress has enforcement powers with regard to the Library of Congress.<sup>84</sup> Judicial enforcement of the FLSA can be sought in an action filed either by an employee or by the Secretary of Labor.<sup>85</sup>

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<sup>77</sup> *Jeter v. St. Regis Paper Co.*, 507 F.2d 973, 977 (5th Cir. 1975).

<sup>78</sup> 29 U.S.C. § 652(5).

<sup>79</sup> 29 U.S.C. § 668(a).

<sup>80</sup> E.O. 12,196, § 1-102, *reprinted as note following* 5 U.S.C. § 7902.

<sup>81</sup> 29 U.S.C. §§ 201-19.

<sup>82</sup> 29 U.S.C. §§ 251-62.

<sup>83</sup> 29 U.S.C. § 206(d).

<sup>84</sup> 29 U.S.C. § 204.

<sup>85</sup> 29 U.S.C. § 216.



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The term "employee" is defined to include any individual employed by the Government of the United States--(i) as a civilian in the military departments, (ii) in any executive agency, (iii) in any unit of the legislative or judicial branch of the Government which has positions in the competitive service, (iv) in a nonappropriated fund instrumentality under the jurisdiction of the Armed Forces, or (v) in the Library of Congress.<sup>86</sup> The FLSA does not apply to the Congress, except for any legislative branch unit that may be in the competitive service.

Pursuant to the terms of the Fair Labor Standards Amendments of 1989,<sup>87</sup> the rights and protections under the FLSA apply to employees of the House of Representatives and to employees of the Office of the Architect of the Capitol.<sup>88</sup> Special enforcement procedures apply with regard to employees of the House of Representatives.<sup>89</sup> The Fair Labor Standards Amendments of 1989 specify that the FLSA applies only to employees of the House, and not to employees of the Senate. The legislative history indicates that protections under the FLSA are extended to all employees of the U.S. House of Representatives not otherwise exempted from wage and hour coverage as bona fide executive, administrative, or professional employees. House employees are thus entitled to the remedies and enforcement procedures spelled out in the Fair Employment Practices Resolution.

The Equal Pay Act of 1963 (EPA)<sup>90</sup> provides that an employer may not discriminate within any establishment between employees on the basis of sex in the payment of wages, for equal work on jobs the performance of which requires equal skill, effort, and responsibility, performed under similar working conditions. EPA applies to employers having employees subject to any provisions of section 6 of the FLSA requiring payment of minimum wages, and to all employees covered by the FLSA. The EPA is enforced by means of the enforcement provisions of the FLSA. Thus, the rights of House employees may be enforced pursuant to the House Fair Employment Practices Resolution.

### Other Labor Laws

The Worker Adjustment and Retraining Notification (WARN) Act (Plant Closing Act)<sup>91</sup> requires any employer with 100 or more employees to provide

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<sup>86</sup> 29 U.S.C. § 203(e)(2)(A).

<sup>87</sup> Fair Labor Standards Amendments of 1989, Pub. L. No. 101-157, § 8, 103 Stat. 944 (1989).

<sup>88</sup> H.R. Rep. No. 101-260, 101st Cong., 1st Sess. 40 (1989).

<sup>89</sup> See Pub. L. No. 101-157, § 8, 103 Stat 944 (1989).

<sup>90</sup> 29 U.S.C. § 206(d).

<sup>91</sup> 29 U.S.C. §§ 2101-09.

at least 60 days notice of any plant closing, or of any mass layoff involving (in most cases) 50 or more employees. Although the Act itself is silent, interpretive regulations issued by the Department of Labor provide that "Federal, State, local and federally recognized Indian tribal governments are not covered."<sup>92</sup> Employees of Congress are therefore not covered. Employees of the Executive Office of the President are also exempt.

Any employer who orders a plant closing or mass layoff in violation of the Act may be liable to each aggrieved employee for back pay, including employee benefits, for up to 60 days. The exclusive remedy for employees or their representatives for violations of the Act is to sue in federal district court.<sup>93</sup>

Under the Employee Polygraph Protection Act of 1988,<sup>94</sup> employers are prohibited from utilizing lie detectors except as expressly permitted by the Act. The Act applies to any employer engaged in or affecting commerce or in the production of goods for commerce. An employer who violates the Act shall be liable to the employee or prospective employee for such legal or equitable relief as may be appropriate, in any federal or state court of competent jurisdiction.<sup>95</sup> Section 7(a) expressly provides that the Act "shall not apply with respect to the United States Government."<sup>96</sup> The Act therefore does not apply to employees of Congress.

The Employee Retirement Income Security Act of 1974 (ERISA)<sup>97</sup> governs all aspects of all employee benefit plans established or maintained by employers, labor organizations, or both. The Act, however, does not apply to any plan if the plan is a governmental plan<sup>98</sup>; a governmental plan is "a plan established or maintained for its employees by the government of the United States." 29 U.S.C. § 1002(32). ERISA therefore has no application to Congress, because Members of Congress and congressional staff participate in the Civil Service Retirement System and in the Federal Employee Retirement System along with federal employees in the executive branch. These plans are established and maintained for its employees by the government of the United States.

Participants and beneficiaries are authorized by section 502 to bring actions to recover fines from plan administrators for failure to provide requested

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<sup>92</sup> 20 C.F.R. § 639.3(a), 54 Fed. Reg. 16065 (Apr. 20, 1989).

<sup>93</sup> 29 U.S.C. § 2104(a).

<sup>94</sup> 29 U.S.C. §§ 2001-09.

<sup>95</sup> 29 U.S.C. § 2005(c).

<sup>96</sup> 29 U.S.C. § 2006(a).

<sup>97</sup> 29 U.S.C. §§ 1001-1453.

<sup>98</sup> 29 U.S.C. § 1003(b)(1).

information; to recover benefits, enforce rights, or clarify future benefits under a plan; to hold fiduciaries responsible through personal liability or other equitable or remedial relief, including removal, for losses to the plan due to breach of fiduciary responsibility; to enjoin any act or practice which violates ERISA or the terms of the plan, or to obtain other equitable relief; and for appropriate relief for a plan administrator's failure to furnish individual statements of deferred vested benefits when separated from service.<sup>99</sup>

It should be noted that many labor and employment related statutes have no application to Congress primarily because the subject matter of the law has no relation to the activities of Congress. The Migrant and Seasonal Agricultural Worker Protection Act,<sup>100</sup> the Federal Mine Safety and Health Act,<sup>101</sup> the Black Lung Benefits Act,<sup>102</sup> the Longshore and Harbor Workers Compensation Act,<sup>103</sup> the Railway Labor Act<sup>104</sup> (rail and airline<sup>105</sup> labor relations), the Federal Employers Liability Act<sup>106</sup> (injuries to rail employees), and the Norris-Laguardia Act<sup>107</sup> (restriction on federal court injunctions in labor disputes) would have no logical application to activities of Congress.

## FREEDOM OF INFORMATION ACT AND PRIVACY ACT OF 1974

### Freedom of Information Act

It is appropriate to consider the Freedom of Information Act (FOIA)<sup>108</sup> and the Privacy Act of 1974<sup>109</sup> together since both Acts concern access to government information and Congress intended agencies covered by the Acts to consider them together in responding to requests for information.

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- <sup>99</sup> 29 U.S.C. § 1132.
  - <sup>100</sup> 29 U.S.C. §§ 1801-72.
  - <sup>101</sup> 30 U.S.C. §§ 801-78.
  - <sup>102</sup> 30 U.S.C. §§ 901-62.
  - <sup>103</sup> 33 U.S.C. §§ 901-50.
  - <sup>104</sup> 45 U.S.C. §§ 151-64.
  - <sup>105</sup> 45 U.S.C. §§ 181-88.
  - <sup>106</sup> 45 U.S.C. §§ 51-60.
  - <sup>107</sup> 29 U.S.C. §§ 51-53.
  - <sup>108</sup> 5 U.S.C. § 552.
  - <sup>109</sup> 5 U.S.C. § 552a.

The Freedom of Information Act, passed in 1966, establishes a statutory right of public access to a vast amount of government information. The Act is intended "to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed."<sup>110</sup> Yet the Act recognizes that the desire to have an informed public may at times conflict with other societal goals, such as preserving the confidentiality of certain matters (e.g., those relating to national security and criminal investigations).<sup>111</sup> The FOIA attempts to accommodate these different concerns.<sup>112</sup>

The FOIA requires publication in the Federal Register of various information, such as descriptions of agency organization and procedures,<sup>113</sup> and also requires that certain materials, such as specific policy statements and certain staff manuals, be made available for public inspection.<sup>114</sup> The Act also provides that all other records are to be disclosed in response to a specific request by any person,<sup>115</sup> except records that fall under one of the nine exemptions from the disclosure requirement.<sup>116</sup> The Act provides for both administrative and judicial appeals.<sup>117</sup>

The FOIA applies to "agencies," defined to include "any executive department, military department, government corporation, government controlled corporation, or other establishment in the executive branch of the government (including the Executive Office of the President), or any independent regulatory agency."<sup>118</sup> Federal elected officials (including the President, Vice President, and Members of Congress) and the federal judiciary are outside the scope of the Act.<sup>119</sup> The Act also "does not apply to private

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<sup>110</sup> *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978).

<sup>111</sup> S. Rept. No. 813, 89th Cong., 1st Sess. 3 (1965).

<sup>112</sup> See generally Franklin, *Guidebook to the Freedom of Information and Privacy Acts* § 1.02 (1986)(reprinting "Short Guide to the Freedom of Information Act," prepared by the Office of Information and Privacy, Department of Justice).

<sup>113</sup> 5 U.S.C. § 552(a)(1).

<sup>114</sup> 5 U.S.C. § 552(a)(2).

<sup>115</sup> 5 U.S.C. § 552(a)(3).

<sup>116</sup> 5 U.S.C. § 552(b).

<sup>117</sup> 5 U.S.C. § 552(a)(4).

<sup>118</sup> 5 U.S.C. § 552(f).

<sup>119</sup> *Citizens' Guide*, *supra* note 110, at 5.



companies; persons who receive federal contracts or grants; tax-exempt organizations; or state or local governments." However, "all states and some localities have passed laws like the FOIA...[and] there are other federal and state laws that may permit access to documents held by organizations not covered by the federal FOIA."<sup>120</sup>

Although the FOIA, by its terms, specifically applies to the Executive Office of the President,<sup>121</sup> the legislative history clarifies that "agency" does not encompass "the President's immediate personal staff or units in the Executive Office whose sole function is to advise and assist the President."<sup>122</sup> However, pursuant to a provision of the Presidential Records Act of 1978,<sup>123</sup> the FOIA does apply (with certain limitations and delays) to the records of former Presidents.

### Privacy Act of 1974

In the Privacy Act of 1974, Congress recognized the right of individuals to informational privacy and determined that it was necessary to regulate "the collection, maintenance, use, and dissemination of information" by federal agencies.<sup>124</sup> The Act applies to "agencies" and adopts the definition of "agency" utilized in the FOIA.<sup>125</sup> The Act generally does not cover records maintained by state and local governments or private organizations or companies.<sup>126</sup>

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<sup>120</sup> *Id.*

<sup>121</sup> 5 U.S.C. § 552(f).

<sup>122</sup> H.R. Rept. No. 1380, 93d Cong., 2d Sess. 15 (1974). See also S. Rep. No. 1200, 93d Cong., 2d Sess. 15 (1974); *Soucie v. David*, 448 F.2d 1067 (D.C.Cir. 1971)(announcing test subsequently adopted in legislative history); *Kissinger v. Reporters Committee for Freedom of the Press*, 445 U.S. 136, 155-56 (1980)(citing legislative history in holding that telephone notes of Assistant to the President were not "agency records"); *Rushford v. Council of Economic Advisers*, 762 F.2d 1038 (D.C.Cir. 1985). The limited application of FOIA to the Executive Office of the President is due to separation of powers and executive privilege considerations.

<sup>123</sup> 44 U.S.C. § 2204(c).

<sup>124</sup> 88 Stat. 1896.

<sup>125</sup> 5 U.S.C. § 552a(a)(1).

<sup>126</sup> However, the Act is applicable to systems of records maintained by government contractors on behalf of agencies to accomplish agency functions. 5 U.S.C. § 552a(m).



An agency is prohibited by the Privacy Act from disclosing "any record which is contained in a system of records" to any person or to any other agency, except with the consent of the individual to whom the records pertains, unless the disclosure is permitted under one of the dozen exceptions from the prohibition.<sup>127</sup> The Act also permits an individual to gain access to agency records pertaining to himself<sup>128</sup> and to request amendment of such records if the individual believes the records are not accurate, complete, relevant, or timely.<sup>129</sup> Furthermore, the Act imposes a variety of requirements on agencies, mandating, *inter alia*, that they keep an accurate accounting of certain disclosures of records,<sup>130</sup> maintain only relevant and necessary information about an individual,<sup>131</sup> and collect certain information to the greatest extent practicable directly from the individual who is the subject of the records. Administrative<sup>132</sup> and judicial<sup>133</sup> appeals are provided under several provisions of the Act, and criminal penalties<sup>134</sup> may be imposed on officers or employees of agencies for certain willful violations of the Act.

The Privacy Act was amended by the Computer Matching and Privacy Protection Act of 1988,<sup>135</sup> which added provisions regulating the use of computerized comparisons of information about individuals in order to determine their eligibility under federal benefit programs.

## CONCLUSION

Congress has been widely criticized for being exempt from various laws which apply to the private sector and/or to the executive branch. Public attention has focussed primarily on congressional exemption from equal employment opportunity and labor legislation. The exclusion of congressional employees from the scope of such laws may be explicable in part by

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<sup>127</sup> 5 U.S.C. § 552a(b).

<sup>128</sup> 5 U.S.C. § 552a(d)(1).

<sup>129</sup> 5 U.S.C. § 552a(d)(2).

<sup>130</sup> 5 U.S.C. § 552a(c).

<sup>131</sup> 5 U.S.C. § 552a(e)(1).

<sup>132</sup> The Privacy Act does not specifically provide for an administrative appeal of an agency's determination to deny an individual access to records, but many agencies permit such an appeal. *Citizens' Guide*, *supra* note 110, at 27.

<sup>133</sup> 5 U.S.C. § 552a(g).

<sup>134</sup> 5 U.S.C. § 552a(i).

<sup>135</sup> Pub. L. No. 100-503.

constitutional concerns and in part by policy considerations. Both the House and Senate have acted recently to apply certain civil rights and labor laws to their employees, but the application of these laws to congressional staff differs from their application to other employees and some have argued that additional legislative action is needed.

Congress might wish to consider a number of factors in weighing such legislation. (1) House and Senate employees are not covered by the rights and protections of the same laws. (2) To the extent that they are covered by certain laws, House employees are limited to in-House enforcement procedures with no right of judicial review and are entitled to the remedies specified in the House Fair Employment Practices Resolution. (3) Senate employees must follow the internal Senate enforcement procedure (but they do have a right of appellate judicial review) and are entitled to the remedies in certain statutory provisions incorporated in § 307(h) of the Civil Rights Act of 1991. (4) Because the House and Senate have acted so recently to provide internal enforcement mechanisms, it may be too soon to assess the viability of such procedures. (5) Constitutional restraints may limit Congress' ability to provide for administrative enforcement by an entity independent of Congress and to provide for judicial review.



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May 20, 1993

TO : Joint Committee on Organization of Congress

FROM : Leslie W. Gladstone *LG*  
Analyst in American National Government  
Government Division

SUBJECT : Fair Employment Practices Complaint Processes for  
Employees of the House and Senate and for Presidential  
Appointees: Comparative Analysis

This memorandum is prepared in response to your request for a side-by-side comparison of the procedures governing the fair employment practices complaint processes for employees in the House of Representatives, the U.S. Senate, and for presidential appointees in the Executive Branch, including the Executive Office of the President. The specific areas covered are time frames for consideration of alleged violations, including mediation, counseling, and hearing; hearing standards; internal review; external appeal or judicial action; and damages.

Employees of the U.S. House of Representatives are covered by fair employment practices procedures enacted under House rule LI and Senate employees and presidential appointees by procedures enacted under Title III of P.L. 102-166, the Civil Rights Act of 1991. Under title III, however, the enforcement entity for presidential appointees is unresolved. Under §320(a)(2) of title III, presidential appointees may file complaints with the Equal Employment Opportunity Commission (EEOC), "or such other entity as is designated by the President by Executive Order, which in accordance with the principles and procedures set forth in §§554 through 557 of title 5, United States Code, shall determine whether a violation has occurred and shall set forth its determination in a final order." To date, no Presidential appointee or employee of the Executive Office has brought a fair employment complaint under P.L. 102-166, and no enforcement entity has been designated. Since the procedures vary, depending on the enforcement entity chosen, the comparison includes separate entries for procedures under the EEOC (29 CFR, ch. XIV, Part

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1614), and under §§554-557 (title 5, U.S. Code) governing any other entity designated by Executive Order.

If I can be of further assistance, please do not hesitate to call me at 707-8645.

Fair Employment Complaint Procedures: A Comparison

Provision	Senate Office of Fair Employment Practices (P.L. 102-166, Title III)	House Office of Fair Employment Practices (House Rule LI)	Presidential Appointees (P.L. 102-166, Title III, under EEOC, 39 CFR 1614, et seq.)	Presidential Appointees (P.L. 102-166, Title III, under Presidentially Designated Entity)
Time frames for Consideration of Alleged Violations	(See following)	(See following)	\$320(a)(2). Employee has 180 days after date of alleged violation to file complaint with Equal Employment Opportunity Commission (EEOC), or "other entity" (OE) designated by Executive Order of the President. Under OE procedure, determination that violation has occurred and issuance of decision as final order to be in accordance with "principles and procedures [of] §§654-657 of title 5 U.S.C."	No provision.
Counseling	\$305. Employee has 180 days to request counseling after date of alleged violation. OFEP to provide employee with information regarding rights. Period of counseling to be 30 days beginning with date of request. (Director may refer employees of Architect of Capitol and Capitol Police to Architect	\$5(a). Employee has 180 days to request counseling after date of alleged violation. Request may be either oral or written. OFEP to provide information with respect to rights under §2. Period for counseling to be 30 days. OFEP may not notify employing office of counseling request before beginning of mediation or	\$1614.105. Aggrieved employees required to consult EEOC counselor within 45 days of alleged discrimination to seek informal resolution and prior to filing complaint. Period of counseling to be 30 days with extensions for sufficient reason.	No provision.



## Fair Employment Complaint Procedures: A Comparison-Continued

Provision	Senate Office of Fair Employment Practices (P.L. 102-166, Title III)	House Office of Fair Employment Practices (House Rule LI)	Presidential Appointees (P.L. 102-166, Title III, under EEOC, 29 CFR 1614, et seq.)	Presidential Appointees (P.L. 102-166, Title III, under Presidentially Designated Entity)
	or Capitol Police Board for resolution of complaint through internal grievance procedures for specific period of time not to be counted against counseling and mediation period available under this title.)	filing of formal complaint, whichever occurs first.		
Mediation	§306. Employee has 15 days after end of counseling period to request mediation. Mediation period to be 30 days beginning on date of request; may be extended for additional 30 days at discretion of OFEP. OFEP to notify employee and head of employing office when period has ended. Mediation to involve employee and employing office, separately or jointly.	§5(b). If employee wishes to proceed with complaint after counseling, OFEP may attempt to resolve alleged violation through mediation between employee and employing authority.	§1614.105(f). If agency has established dispute resolution procedure and employee opts for process, provides 90 day period.	No provision.

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## Fair Employment Complaint Procedures: A Comparison-Continued

Provision	Senate Office of Fair Employment Practices (P.L. 102-166, Title III)	House Office of Fair Employment Practices (House Rule LI)	Presidential Appointees (P.L. 102-166, Title III, under EEOC, 29 CFR 1614, et seq.)	Presidential Appointees (P.L. 102-166, Title III, under Presidentially Designated Entity)
Formal Complaint and Hearing	§307. (a) Formal complaint to be filed with OFEP not later than 30 days after employee receives notice that mediation period has ended. To file complaint, employee must have made timely request for counseling and completed procedures in §§305-306.	§6. (a) Formal complaint to be filed with OFEP not later than 15 days after end of counseling period. Written request for hearing on complaint to be filed with OFEP not later than 10 days after filing formal complaint.	§1614.106. Complaint to be filed within 15 days after end of counseling or pre-complaint period.	No provision.
Hearing Standards	§307(d). Hearing to be conducted to greatest extent practicable, in accordance with principles and procedures set forth in §§604-607, title V, U.S.C.	§6(b). Hearing to be conducted to greatest extent practicable, in accordance with principles and procedures set forth in §§555 and 556 of title V, U.S.C.	§1614.109. EEOC to appoint Administrative Judge to conduct hearing under procedures specified in §1614.109.	§320(a)(2). Hearings to be conducted in accordance with principles and procedures set forth in §§554-557 of title 5, U.S.C.
	(g). Board to issue written decision within 45 days after hearing regarding issues raised by complaint, evidence in record, and determination as to whether violation has occurred. Hearing board decision favorable to employee to be made public.	(c). OFEP to issue written decision within 20 days after hearing regarding issues raised by complaint and determination as to whether violation of §2 has occurred.	§1614.109(g). Administrative Judge releases findings on merits of complaint and order of appropriate relief within 180 days of request for hearing. Recommended decision of Administrative Judge to become final decision of agency within 60 days after receipt of findings unless agency has rejected or modified them.	320(a)(2). Under either EEOC or OE finding that violation has occurred, final order also to provide for appropriate relief.

## Fair Employment Complaint Procedures: A Comparison-Continued

Provision	Senate Office of Fair Employment Practices (P.L. 102-166, Title III)	House Office of Fair Employment Practices (House Rule LJ)	Presidential Appointees (P.L. 102-166, Title III, under EEOC, 29 CFR 1614, et seq.)	Presidential Appointees (P.L. 102-166, Title III, under Presidentially Designated Entity)
Internal Review	<p>§308. (a) In general: Employee or employing office has 10 days after receiving hearing board's decision to file request for review by Select Committee on Ethics or other entity designated by Senate. At discretion of Director, Office may file request for review by Ethics Committee not later than 5 days after expiration of deadline for filing by employee or employing office. Interested parties to be notified.</p>	<p>§7. (a) In general: Employee or employing office has 20 days after decision issued under §6 to file written request for final review. Review to be conducted by panel designated at beginning of each Congress and composed of: (1) 2 elected officers of House appointed by Speaker; (2) 2 employees of House appointed by minority leader of House; (3) 2 members of House Administration Committee (one to be named chairman of panel) appointed by Chairman of Committee; and (4) 2 members of House Administration Committee appointed by ranking minority party member of Committee. If any member of panel withdraws from particular review, the appointing authority for withdrawing member to name temporary replacement.</p>	<p>§1614.109(g), §1614.110. Administrative Judge to transmit recommended decision to head of agency for final decision.</p>	<p>§557(b), Title 5, U.S.C. Agency may review initial decision.</p>

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## Fair Employment Complaint Procedures: A Comparison-Continued

Provision	Senate Office of Fair Employment Practices (P.L. 102-166, Title III)	House Office of Fair Employment Practices (House Rule LJ)	Presidential Appointees (P.L. 102-166, Title III, under EEOC, 29 CFR 1614, et seq.)	Presidential Appointees (P.L. 102-166, Title III, under Presidentially Designated Entity)
	(b) Review. Review to be based on record of hearing board.	(b) Review and decision. Review to consist of hearing under procedures set out in §6(b)(3), if panel agrees hearing is necessary, based on examination of record and any statements or documents panel believes appropriate. A tie vote by panel affirms decision of Office. Panel has 30 days after filing of request under subsection (a) to complete review and submit written decision to parties and House Administration Committee.		
	(c) Remand. Within 60-day review period provided under subsection (d), committee has one opportunity to remand decision to hearing board for purpose of supplementing record or for further consideration.	No provision.	No provision.	No provision.

## Fair Employment Complaint Procedures: A Comparison-Continued

Provision	Senate Office of Fair Employment Practices (P.L. 102-166, Title III)	House Office of Fair Employment Practices (House Rule LI)	Presidential Appointees (P.L. 102-166, Title III, under EEOC, 29 CFR 1614, et seq.)	Presidential Appointees (P.L. 102-166, Title III, under Presidentially Designated Entity)
(d) Final decision. Decision of hearing board final if no timely request for review filed. Review period, unless decision remanded to board under subsection (c), to be 60 calendar days during which Senate is in session. Committee may extend transmission of final decision for 15 additional Senate-session days. Committee may deny review, remand to board, approve or reverse decision of board. Committee to transmit written decision by end of 60 day review period and notify interested parties.	See §7(b) above.	No provision.	No provision.	No provision.
(e) Statement of reasons. Any decision of Committee regarding remand or review of hearing board decision to contain written statement of reasons.	No provision.	No provision.	No provision.	No provision.



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## Fair Employment Complaint Procedures: A Comparison-Continued

Provision	Senate Office of Fair Employment Practices (P.L. 102-166, Title III)	House Office of Fair Employment Practices (House Rule LI)	Presidential Appointees (P.L. 102-166, Title III, under EEOC, 29 CFR 1614, et seq.)	Presidential Appointees (P.L. 102-166, Title III, under Presidentially Designated Entity)
External Appeal/Judicial Action	§309. (a) In general, within 90 days after final decision filed at OFEP, any Senate employee wishing to appeal final decision of Office or Senator wishing to appeal requirement to make monetary settlement may petition for review by U.S. Court of Appeals for Federal Circuit.	No provision.	§1614.110. Final agency decision to include notice of right to file civil action, with name of proper defendant, along with time limits for lawsuit.  §1614.408. Complainant must file civil action within 90 days of receipt of final decision if no appeal filed with EEOC, within 90 days of receipt of EEOC decision on appeal, after 180 days if no final decision on appeal to EEOC.	§320(a)(3). Any party aggrieved by final order of EEOC or OE may petition for review by U.S. Court of Appeals for Federal Circuit. Review to be conducted under ch. 158, title 28, U.S.C.

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## Fair Employment Complaint Procedures: A Comparison-Continued

Provision	Senate Office of Fair Employment Practices (P.L. 102-166, Title III)	House Office of Fair Employment Practices (House Rule LI)	Presidential Appointees (P.L. 102-166, Title III, under EPOC, 29 CFR 1614, et seq.)	Presidential Appointees (P.L. 102-166, Title III, under Presidentially Designated Entity)
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(b) Applicable law. Review to be conducted under provisions of ch. 158, title 28, U.S. Code ("Orders of Federal Agencies; Review," Judiciary and Judicial Procedures), except that:

(1) under §2344, title 28, petition to be served on Senate Legal Counsel; (2) provisions of §2343, title 28, shall not apply; (3) petition for review to be filed no more than 90 days after decision under §308(d) is received by OFEP; (4) OFEP to be "agency" under terms of ch. 158, title 28, U.S. Code; and OFEP to be respondent in any proceedings under this section.

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## Fair Employment Complaint Procedures: A Comparison-Continued

Provision	Senate Office of Fair Employment Practices (P.L. 102-166, Title III)	House Office of Fair Employment Practices (House Rule LI)	Presidential/Appointees (P.L. 102-166, Title III, under EEOC, 29 CFR 1614, et seq.)	Presidential/Appointees (P.L. 102-166, Title III, under Presidentially Designated Entity)
	<p>(c) Standard of review. Court to decide all relevant legal questions and interpret constitutional and statutory questions necessary to decision. Decision to be set aside if it was: (1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law; (2) not made consistent with required procedures; or (3) unsupported by substantial evidence. Review to include whole record or parts cited by appellant, with attention given to rule of prejudicial error.</p>			
Damages	<p>(h) Remedies for violations to include those appropriate if awarded under §706(g) and (k) of Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g) and (k)), with option to award compensatory damages appropriate under §1977</p>	<p>§9. See also §2. OFEP or review panel may order: (1) monetary compensation, to be paid from contingent fund of House; (2) in case of serious violation, additional payment to be paid from clerk-hire</p>	<p>§1614.501(a). Agency to provide the following relief: payment to victim equivalent to any loss of earnings suffered as result of discrimination; payment of backpay and attorney's fees or costs by complainant's agency.</p>	<p>§307(h). Remedies for violations to include those appropriate if awarded under §706(g) and (k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g) and (k)), with option to award compensatory damages appropriate</p>

## Fair Employment Complaint Procedures: A Comparison-Continued

Provision	Senate Office of Fair Employment Practices (P.L. 102-166, Title III)	House Office of Fair Employment Practices (House Rule LI)	Presidential Appointees (P.L. 102-166, Title III, under EEOC, 29 CFR 1614, et seq.)	Presidential Appointees (P.L. 102-166, Title III, under Presidentially Designated Entity)
<p>and §1977A(a) and (b)(2) of Revised Statutes (42 U.S.C. 1981 and 1981A(a) and (b)(2)). Violations based on age to be those appropriate if awarded under §15(c) of Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)).</p> <p>(d) Attorney's fees. If employee prevails in judicial review, attorney's fees allowed under standards prescribed under §706(k), Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)).</p>	<p>allowance of Member or from personnel funds of committee or other entity, as appropriate; (3) injunctive relief; (4) costs and attorney fees; (5) employment, reinstatement to employment, or promotion (with or without back pay).</p>	<p>notification to all employees of right to be free of unlawful discrimination and assurance that discrimination found will not recur; commitment to corrective action; placement of injured party(ies) in position would have occupied but for discrimination or equivalent position; expunction from agency's records of any adverse materials relating to discriminatory employment practice.</p>	<p>under §§1077 and 1977A(a) and B(2) of Revised Statutes (42 U.S.C. 1981 and 1981A(a) and (b)(2)). Violations based on age to be those appropriate if awarded under §15(c) of Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)).</p>	<p>§3203(MD). If presidential appointee prevails, attorney's fees may be allowed in accordance with standards prescribed under §706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)).</p>
<p>(i) For precedent and interpretations, hearing boards to be guided by judicial decisions under statutes referred to in §302 and §307(h); also by precedents developed by Select Committee on Ethics under §308 and other Senate precedents.</p>	<p>§2(b) Interpretations under §2(a) to reflect principles of current law as generally applicable to employment.</p>			

Donald R. Anderson  
Clerk

W. Raymond Colley  
Deputy Clerk

Office of the Clerk  
U.S. House of Representatives  
Washington, DC 20515-6601

April 19, 1993

To All Employees of the  
U.S. House of Representatives  
Washington, D.C. 20515

Dear House Employee,

Please find enclosed a fact sheet entitled, "Know Your Employment Rights." I hope that you will carefully read the enclosed fact sheet and familiarize yourself with it. The first page of the fact sheet has summaries designed to inform you of your employment "rights and protections." The remaining pages of the fact sheet describe the grievance process under Rule 51.

Through Rule 51 and employment statutes, the House of Representatives affords its employees certain "rights and protections." To assist employees, Rule 51 established an Office of Fair Employment Practices as a forum in which to address employment grievances.

I wish to note that merely contacting the Office of Fair Employment Practices will not result in a formal complaint. The Office assists employees in finding ways to resolve matters on their own and through mediation before having to file a formal complaint.

The Office of Fair Employment Practices protects the confidentiality of those who seek information and participate in the process. If you have any questions or a particular concern, please contact the Office immediately by calling (202) 225-0880.

Sincerely yours,

*Donald R. Anderson*

DONNALD K. ANDERSON, Clerk  
U.S. House of Representatives



## FACT SHEET:

# KNOW YOUR EMPLOYMENT RIGHTS

*Rule 51 of the U.S. House of Representatives provides House employees with rights and protections which include nondiscrimination in employment, fair labor standards, and family and medical leave. Section 1 provides coverage to employees under the Fair Labor Standards Act. Section 2 extends coverage to other areas: "Personnel actions affecting employment positions in the House of Representatives shall be made free from discrimination based on race, color, national origin, religion, sex (including marital and parental status), disability, or age."*

**As applied in the House, Rule 51 covers the following "rights and protections":**

**RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN:** Prohibits discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment including sexual harassment. (Title VII of the Civil Rights Act of 1964)

**DISABILITY:** Protects qualified applicants and employees with disabilities from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, classification, referral, and other aspects of employment on the basis of disability. Employers are required to provide qualified applicants and employees with disabilities with reasonable accommodations that do not impose undue hardship. (The Americans with Disabilities Act of 1990)

**AGE:** Protects individuals 40 years of age or older from discrimination on the basis of age in hiring, promotion, discharge, compensation, terms, conditions or privileges of employment.

**FAIR LABOR & EQUAL PAY:** Grants rights which include, but are not limited to, minimum wage and overtime pay (except for exempt employees), equal pay for equal work, and a prohibition against child labor. It also imposes duties and obligations on the employing authorities which include notice to their employees of their rights and protections, accurate record-keeping to support leave and overtime disbursements, and good faith compliance (The Fair Labor Standards Amendments of 1989, Regulations issued by the Committee on House Administration).

In addition to sex discrimination (prohibited by Title VII of the Civil Rights Act), the Equal Pay Act of 1963, as amended, prohibits sex discrimination in payment of wages to women and men performing substantially equal work in the same office. (Fair Labor Standards Amendments of 1989)

**FAMILY AND MEDICAL LEAVE:** Entitles certain workers, employed for at least one year, up to twelve (12) weeks of unpaid leave during any twelve (12) month period for childbirth, adoption, and serious health conditions for self, child, spouse or parents. (Family and Medical Leave Act – Effective August 1993)

**RETALIATION:** The House of Representatives expressly prohibits any employing authority from intimidating or retaliating against an employee for the exercise of a right under Rule 51.

**If you feel that your rights and protections have been violated, you should immediately contact:**

**Office of Fair Employment Practices**  
O'Neill H.O.B., Room 115  
Washington, D.C. 20515  
225-0880, Fax 225-5740, TDD 225-6272

## PROCEDURES FOR FILING A COMPLAINT

Rule 51 of the U.S. House of Representatives governs certain personnel actions for employees and employers of the House. In addition to Rule 51, the House has extended the application of various employment laws to such employees and employers. First, the House included its employees and employers under coverage of the Fair Labor Standards Amendments of 1969. Second, the House included itself under the "rights and protections" of the Americans with Disabilities Act of 1990. Third, the House extended to House employees the "rights and protections" under the Civil Rights Act of 1991 and the Civil Rights Act of 1964, as amended. Fourth, the House provides coverage to employees under the Family and Medical Leave Act of 1993, **effective August 1993.**

The Fair Employment Practices Resolution procedure has three stages: 1) Counseling and Mediation; 2) Formal Complaint and Hearing; and, 3) the Final Review which is conducted by the Fair Employment Practices Review Panel. The following is a brief explanation of each stage:

### Counseling and Mediation

- \* Your counseling period begins with your first counseling appointment with a counselor. The counseling period lasts for 30 days, unless shortened by agreement of both the Office and the employee.
- \* During this 30-day counseling period all discussion between you and the Office of Fair Employment Practices is confidential.
- \* If after the 30-day counseling period you desire to proceed, your employing authority will be notified, and the Office of Fair Employment Practices shall attempt to resolve the alleged violation through mediation between you and your employing authority.
- \* Mediation is a voluntary, informal and strictly confidential process to assist both you and the employing authority in reaching your own resolution of the dispute. Although mediation begins only after counseling, it may be used during any stage thereafter.

### Formal Complaint and Hearing

- \* If within 30 days after the counseling period you desire to proceed with a formal complaint, you must file the complaint with the Office of Fair Employment Practices on a **COMPLAINT OF DISCRIMINATION** form provided by the Office. Failure to file this complaint form within this 30-day time period concludes the complaint process.
- \* If you desire to proceed after filing a formal complaint, you must file a **REQUEST FOR HEARING** form with the Office of Fair Employment Practices. This form is provided by the Office and must be received by the Office within 10 days of filing your formal complaint. Failure to file the request within the 10-day time period concludes the complaint process.
- \* The hearing is held within 40 days of the filing of your written request for the hearing.
- \* The hearing is conducted by a Hearing Officer, and a written decision is issued to both parties by the Office within 30 days of the completion of the hearing.

(continued on next page)

Final Review

- \* If you or the other party/parties are not satisfied with the decision, you or any of the parties may request a review of the decision. This request must be filed in writing with the Office of Fair Employment Practices not later than 20 days after the date of issuance of the decision.
- \* The review is conducted by the Fair Employment Practices Review Panel consisting of 8 panelists: 2 majority and 2 minority Members of the Committee on House Administration, 2 Officers and/or employees of the House appointed by the Speaker, and 2 employees of the House appointed by the Minority Leader. The review may include an additional hearing if the Review Panel considers it necessary.
- \* The Review Panel must complete its review and issue a written decision to the parties and to the Committee on House Administration within 60 days of the request for review, except that when the House is adjourned sine die an extension of up to 60 additional days is authorized.
- \* This completes the procedures under Rule 51 - Employment Practices.

**You Should Know:**

- \* Except where the Complaint is withdrawn, if you and the other party/parties resolve the issue at any time after a formal complaint has been filed, all parties must enter a written agreement about the resolution. This agreement will be effective upon approval by the Office of Fair Employment Practices or the Fair Employment Practices Review Panel.
- \* All hearings under this procedure shall be closed. All information relating to this procedure is confidential and all parties are obliged to maintain confidentiality, except that if a final decision is rendered, the text of that decision shall be published by the Office of Fair Employment Practices.
- \* You may be accompanied by a qualified representative of your own choosing at any stage of this process.
- \* If you reside outside of the Washington, D.C. metropolitan area, you will be reimbursed for actual and reasonable costs of attending any hearing under this procedure. Necessary witnesses will also be reimbursed in such manner.
- \* If your employing authority has an internal procedure for examining and resolving violations of Rule 51, you may be encouraged by the Office of Fair Employment Practices to exhaust those internal procedures before beginning the procedures outlined above.
- \* The Office of Fair Employment Practices and the Fair Employment Practices Review Panel are the **exclusive remedies and procedures** under Rule 51 and the above-mentioned Acts. To exercise your rights under this Office, you must contact this Office within 180 calendar days of the alleged violation.

**For Additional Information, see:**

House Rule 51, Rules of U.S. House of Representatives, 103rd Congress  
 ADA Fact Sheet, Committee on House Administration, February 18, 1992 and July 27, 1992  
 FLSA Regulations, Committee on House Administration, May 10, 1991  
 FLSA Letter, Committee on House Administration, Sept. 28, 1990

**For Further Information:**

Office of Fair Employment Practices  
 115 O'Neill H.O.B.  
 Washington, D.C. 20515  
 202-225-0880, Fax 225-5740, TDD 225-6272

(revised 3/15/93)

William K. Baranowski  
Director

PHONE: 225-0881

Office of Fair Employment Practices  
U.S. House of Representatives  
Washington, DC 20515-6616

RULE LI  
of the  
HOUSE of REPRESENTATIVES

"EMPLOYMENT PRACTICES.

"1. The Committee on House Administration shall have authority to issue rules and regulations applying the rights and protections of the Fair Labor Standards Act in the House, including, but not limited to, determination of exemption categories, permitting the use of compensatory time as compensation under the maximum work week provisions of the Act, describing the record-keeping requirements and providing that such recordkeeping provisions do not apply with respect to employees exempted pursuant to the Committee's Rules and Regulations.

"nondiscrimination in employment

"2. (a) Personnel actions affecting employment positions in the House of Representatives shall be made free from discrimination based on race, color, national origin, religion, sex (including marital or parental status), disability, or age.

"(b) Interpretations under paragraph (a) shall reflect the principles of current law, as generally applicable to employment.

"(c) Paragraph (a) does not prohibit the taking into consideration of—

"(1) the domicile of an individual with respect to a position under the clerk-hire allowance; or

"(2) the political affiliation of an individual with respect to a position under the clerk-hire allowance or a position on the staff of a committee or a position under all support offices, except as otherwise stated in the Rules of the House of Representatives.

"procedure

"3. The procedure for consideration of alleged violations of clause 2 consists of three steps as follows:

"(a) step I. Counseling and Mediation, as set forth in clause 5;

"(b) step II. Formal Complaint, Hearing, and Review by the Office of Fair Employment Practices, as set forth in clause 6; and

"(c) step III. Final Review by Review Panel, as set forth in clause 7.

"office of fair employment practices

"4. There is established an Office of Fair Employment Practices (hereafter in this rule referred to as the "Office"), which shall carry out functions assigned under this rule. Employees and Hearing Officers of the Office shall be appointed by, and serve at the pleasure of, the Chairman and the ranking minority party member of the Committee on House Administration, acting jointly, and shall be under the administrative direction of the Clerk of the House of Representatives. The Office shall be located in the District of Columbia.

"step I: counseling and mediation

"5. (a) An individual aggrieved by an alleged violation of clause 2 may request counseling by counselors in the Office, who shall provide information with respect to rights and related matters under that clause. A request for counseling shall be made not later than one hundred and eighty days after the alleged violation and may be oral or written, at the option of the individual. The period for counseling is thirty days, unless the employee and the Office agree to reduce the time period. The Office may not notify the employing authority of the counseling before the beginning of mediation or the filing of a formal complaint, whichever occurs first.

"(b) If, after counseling, the individual desires to proceed, the Office shall attempt to resolve the alleged violation through mediation between the individual and the employing authority.

"step II: formal complaint, hearing, and review by the office of fair employment practices

"6. (a) Not later than thirty days after the end of the counseling period, the individual may file a formal complaint with the Office. Not later than ten days after filing the formal complaint, the individual may file with the Office a written request for a hearing on the complaint.

"(b) The hearing shall be conducted—

"(1) not later than forty days after filing of the written request under paragraph (a);

"(2) on the record by a Hearing Officer of the Office appointed under the procedures set forth in clause 4; and

"(3) to the greatest extent practicable, in accordance with the principles and procedures set forth in sections 655 and 656 of title 5, United States Code.

"(c) Not later than thirty days after the hearing, the Office shall issue a written decision to the parties. The decision shall clearly state the issues raised by the complaint, and shall contain a determination as to whether a violation of clause 2 has occurred.



**"step iii: final review by review panel**

"7. (a) In General. Not later than twenty days after issuance of the decision under clause 6, any party may seek formal review of the decision by filing a written request with the Office. The formal review shall be conducted by a panel constituted at the beginning of each Congress and composed of—

"(1) two elected officers or employees of the House of Representatives, appointed by the Speaker;

"(2) two employees of the House of Representatives appointed by the minority leader of the House of Representatives;

"(3) two members of the Committee on House Administration (one of whom shall be appointed as chairman of the panel), appointed by the Chairman of that Committee; and

"(4) two members of the Committee on House Administration, appointed by the ranking minority party member of that Committee.

If any member of the panel, withdraws from a particular review, the appointing authority for such member shall appoint another officer, employee, or Member of the House of temporary member of the panel for purposes of that review only.

"(b) The review under this clause shall consist of a hearing (conducted in the manner described in clause 6(b)(3)). If such hearing is considered necessary by the panel, and an examination of the record, together with any statements or other documents the panel deems appropriate. A tie vote by the panel is an affirmation of the decision of the Office. The panel shall complete the review and submit a written decision to the parties and to the Committee on House Administration not later than sixty days after filing of the request under paragraph (a), except that when the House has adjourned sine die, in which case an extension of up to sixty additional days is authorized.

**"resolution by agreement**

"8. If, after a formal complaint is filed under clause 6, the parties resolve the issues involved, the parties shall enter into a written agreement, which shall be effective—

"(1) in the case of a matter under review by the Office under clause 6, if approved by the Office; and

"(2) in the case of a matter under review by a panel under clause 7, if approved by the panel.

**"remedies**

"9. The Office or a review panel, as the case may be, may order one or more of the following remedies:

"(a) monetary compensation, to be paid from the clerk-hire allowance of a Member, or from personnel funds of a committee of the House or other entity, as appropriate;

"(b) monetary compensation, to be paid from the contingent fund of the House of Representatives;

"(c) injunctive relief;

"(d) costs and attorney fees; and

"(e) employment, reinstatement to employment, or promotion (with or without back pay).

**"costs of attending hearings**

"10. An individual with respect to whom a hearing is held under this rule shall be reimbursed for actual and reasonable costs of attending the hearing. If the individual resides outside the location of the hearing. Witnesses required to attend the hearings by the Hearing Officer as necessary to a fair and

justiciable hearing shall be reimbursed for actual and reasonable costs of attending the hearing if they reside outside the location of the hearing. Expenses are to be paid from the contingent fund of the House of Representatives.

**"prohibition of intimidation**

"11. Any intimidation of, or reprisal against, any person by an employing authority because of the exercise of a right under this rule is a violation of clause 2.

**"closed hearings and confidentiality**

"12. All hearings under this rule shall be closed. All information relating to any procedure under this rule is confidential, except that a decision of the Office under clause 6 or a decision of a review panel under clause 7 shall be published. If the decision constitutes a final disposition of the matter.

**"exclusivity of procedures and remedies**

"13. The procedures and remedies under this rule are exclusive except to the extent that the Rules of the House of Representatives and the Rules of the House Committee on Standards of Official Conduct provide for additional procedures and remedies.

**"requests for witnesses and information**

"14. The Office of Fair Employment Practices and the Fair Employment Practices Review Panel may issue, and the addressees shall comply with, written requests for the production of documents and the attendance of witnesses. If such requests are necessary and relevant to the proper examination of the issues.

**"internal procedures for resolution of possible violations**

"15. It is the policy of the House of Representatives to encourage each employing authority to establish internal procedures for examining and resolving possible violations of this rule. To the greatest extent practicable, the Office of Fair Employment Practices shall take such action (consistent with the rights of the parties) as may be necessary to encourage initial use of such procedures.

**"definitions**

"16. As used in this rule—

"(a) the term "employment position" means, with respect to the House of Representatives, a position the pay for which is disbursed by the Clerk of the House of Representatives, or other official designated by the House of Representatives, and any employment position in a legislative service organization or other entity that is paid through funds derived from the clerk-hire allowance;

"(b) the term "employing authority" means, the Member of the House of Representatives or elected officer of the House of Representatives, or the Director of the Congressional Budget Office, with the power to appoint the employee;

"(c) the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress; and

"(d) the term "elected officer of the House of Representatives" means an elected officer of the House of Representatives (other than the Speaker and the Chaplain).

(20) Strike rules LFI and LFI.



## UNITED STATES SENATE

## OFFICE OF SENATE

## FAIR EMPLOYMENT

## PRACTICES

UNITED STATES SENATE  
OFFICE OF SENATE FAIR  
EMPLOYMENT PRACTICES*New Office Created  
by the Civil Rights Act*

The new Office of Senate Fair Employment Practices, hereafter called the Office, opened June 1, 1992. It was authorized by Title III of the Civil Rights Act of 1991, which was signed into law November 21, 1991.

*Discriminatory  
Practices Prohibited*

Title III reaffirms Senate Rule 42 in its prohibition of discrimination, but also creates the Office to administer the anti-discrimination provisions of the law. Title III provides to current and former Senate employees and applicants for Senate employment civil rights protection of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

In essence, *all personnel actions* affecting current and former employees of the Senate and applicants for employment *shall be free from any discrimination based on race, color, religion, sex, national origin, age, or disability*. Title III also prohibits *intimidation or retaliation* against employees or applicants who pursue their civil rights. These prohibitions against discrimination include sexual harassment, a form of sex discrimination.

Likewise, the law requires reasonable accommodation, be made to hire or retain qualified individuals with disabilities.

However, it is not a violation of Title III to consider party affiliation, domicile, or political compatibility with the employing office in personnel actions affecting an applicant for employment or an employee on the staff of the Senate Leadership, a Committee or Subcommittee, a Member of the Senate, or for an officer or employee of the Senate elected by the Senate or appointed by a Member.

#### ***Responsibilities Of Heads Of Employing Offices***

The heads of employing offices are the individuals who have final authority to appoint, hire, discharge, and set the terms, conditions or privileges of employment for the employee. This includes, for example, the Member in his or her personal office; the Chair or Ranking Minority Member (or Vice Chair) of Senate Committees and Subcommittees; and heads of Senate support offices.

Each head of an employing office of the Senate must ensure that all employees and applicants for employment are treated in a non-discriminatory manner in recruitment and job application procedures, hiring, compensation, promotion or career advancement, leave, discharge, job training, and in other terms, conditions, and privileges of employment.

It is vital that all heads of employing offices of the Senate inform their managers, supervisors and employees about the new law. The heads of employing offices are also responsible

ble for ensuring that the work environment is free from discrimination, including sexual harassment, and from barriers to or lack of reasonable accommodation for the employment of qualified individuals with disabilities. Additionally, the heads of employing offices are responsible for informing employees and applicants for employment, who feel they have been discriminated against, of their right to use the Senate Employment Discrimination Complaint Procedures. When an employee or applicant initiates the Complaint Procedures, employing offices have the responsibility of cooperating in the expeditious processing of the cases and for ensuring that there is no intimidation of, or reprisal against, the person for exercising his or her rights under the law.

#### ***The Role Of The Office Of Senate Fair Employment Practices***

The Office, headed by Dr. Harriett G. Jenkins, Director, and Carl D. Moore, Deputy Director, was created to administer the process which addresses allegations of discrimination. The Office also will develop and implement programs for the Senate which heighten awareness of employee rights and are intended to prevent violations from occurring.

#### ***Employment Discrimination Complaint Procedures***

The Office administers the complaint resolution process, which consists of counseling; mediation; formal complaint and board hearing; review of the board decision by the Senate Select Committee on Ethics; and, in some instances, judicial review. The goal of the Civil Rights Act of 1991 is to encourage early

informal resolution of the dispute via the counseling and mediation process. These procedures are described more fully in the pamphlet, **EMPLOYMENT DISCRIMINATION COMPLAINT PROCEDURES**.

#### ***Awareness Of Employee Rights***

To heighten awareness of employee rights, the Office will provide briefings and information to groups and individuals; discuss and answer questions via telephone, letter or in person; offer general advice on request; provide training in areas of greatest concern to individual Senate offices; and help institutionalize personnel practices which prevent discrimination in the management of one's human resources.

To assist in raising awareness, a representative from each Member's office, Committee, and Senate support office has been named to work with the Office.

***IT IS IN THE BEST INTEREST OF THE SENATE THAT NO ILLEGAL DISCRIMINATION BE TOLERATED IN ANY ASPECT OF EMPLOYMENT IN THE SENATE; AND IT IS ASSUMED AND EXPECTED THAT ALL PERSONS WHO WORK FOR THE SENATE WILL CARRY OUT, NOT ONLY THE LETTER, BUT ALSO THE SPIRIT OF THE CIVIL RIGHTS ACT OF 1991.***

*George Mitchell*

George Mitchell  
Majority Leader

*Bob Dole*

Bob Dole  
Republican Leader

#### **FOR ADDITIONAL INFORMATION**

For additional information, contact the Office, which is located in Suite 103 of the Hart Senate Office Building. The telephone number is 202-224-6666; the Telecommunication Device for the Deaf (TDD) number is 202-224-6667; and the FAX number is 202-228-8666. You may write to the Office at the following address:

Office of Senate Fair Employment Practices  
United States Senate  
Hart Senate Office Building, Suite 103  
Washington, D.C. 20510-9060

***All contacts with the Office are handled in the strictest confidence. No one outside the Office will be notified of the contact without the permission of the person who initiates the contact.***

The information contained in this pamphlet is intended as a general overview, and does not carry the force of legal opinion.

August 14, 1992

UNITED STATES SENATE  
OFFICE OF SENATE FAIR  
EMPLOYMENT PRACTICES

EMPLOYMENT  
DISCRIMINATION



FOR CURRENT AND FORMER  
SENATE EMPLOYEES AND  
APPLICANTS FOR  
EMPLOYMENT

DISCRIMINATION COMPLAINT PROCEDURES  
FOR CURRENT AND FORMER EMPLOYEES  
AND FOR APPLICANTS FOR EMPLOYMENT  
IN THE UNITED STATES SENATE

The Office of Senate Fair Employment Practices (also referred to here as "the Office") administers the discrimination complaint process for current and former employees of the U.S. Senate as well as applicants for employment in the Senate. It is the intent of the Office to help resolve employment disputes in a fair and timely fashion. The process focuses on bringing the employee and the supervisor together in an effort to mutually and amicably resolve the dispute with the assistance and guidance of professionals in conflict resolution.

In addition to this complaint resolution process, the Office will also identify and resolve potential areas of conflict through an ongoing program of education and training for employees and supervisors in the Senate.

An employee of the Senate or an applicant for employment may file a complaint of discrimination with the Office on the basis of race, color, religion, sex, national origin, age or disability. Intimidation of or reprisal against a person who participates in this process or who opposes a discriminatory employment practice is also illegal. A complaint alleging intimidation or reprisal is filed and processed in the same manner as other complaints of discrimination.

The people who may use this process include the following:

- ♦ An employee whose pay is disbursed by the Secretary of the Senate, or a former such employee;
- ♦ An employee of the Architect of the Capitol who is assigned to the Senate restaurants or to the Superintendent of the Senate Office Buildings, or a former such employee; and
- ♦ An applicant for one of the above positions when the appointment will last for 90 days or more.



# **DISCRIMINATION COMPLAINT PROCEDURES FOR CURRENT AND FORMER EMPLOYEES AND FOR APPLICANTS FOR EMPLOYMENT IN THE UNITED STATES SENATE**

The Office of Senate Fair Employment Practices (also referred to here as "the Office") administers the discrimination complaint process for current and former employees of the U.S. Senate as well as applicants for employment in the Senate. It is the intent of the Office to help resolve employment disputes in a fair and timely fashion. The process focuses on bringing the employee and the supervisor together in an effort to mutually and amicably resolve the dispute with the assistance and guidance of professionals in conflict resolution.

In addition to this complaint resolution process, the Office will also identify and resolve potential areas of conflict through an ongoing program of education and training for employees and supervisors in the Senate.

An employee of the Senate or an applicant for employment may file a complaint of discrimination with the Office on the basis of race, color, religion, sex, national origin, age or disability. Intimidation or reprisal against a person who participates in this process or who opposes a discriminatory employment practice is also illegal. A complaint alleging intimidation or reprisal is filed and processed in the same manner as other complaints of discrimination.

The people who may use this process include the following:

- ♦ An employee whose pay is disbursed by the Secretary of the Senate, or a former such employee;
- ♦ An employee of the Architect of the Capitol who is assigned to the Senate restaurants or to the Superintendent of the Senate Office Buildings, or a former such employee; and
- ♦ An applicant for one of the above positions when the appointment will last for 90 days or more.

The Office oversees the complaint resolution process, which consists of the following five steps:

- (1) *Counseling;*
- (2) *Mediation;*
- (3) *Formal Complaint and Board Hearing;*
- (4) *Review of the Board Decision by the Senate Select Committee on Ethics; and*
- (5) *Judicial Review.*

Each of these steps is described more fully below. The employee/applicant has the right to be represented by the person or persons of his/her choice at any step in the process.

## **STEP ONE: COUNSELING**

Before filing a complaint, an employee/applicant must contact the Office to request counseling. The primary objective of counseling is to provide the employee/applicant with all relevant information regarding her/his rights. All counseling is strictly confidential. The employing office WILL NOT be notified of the counseling unless the employee/applicant gives permission.

*The request for counseling must be made to the Office within 180 calendar days following the alleged discriminatory event.*

The counseling period lasts 30 days, unless the Office and the employee/applicant agree to close counseling sooner. When the counseling period is over, the employee/applicant will have 15 calendar days to request mediation, which must be completed before filing a complaint.



#### **STEP FOUR: REVIEW OF THE BOARD DECISION BY THE SENATE SELECT COMMITTEE ON ETHICS**

A Hearing Board decision is subject to review by the Senate Select Committee on Ethics. There are three individuals who can request Committee review of a Board decision. These individuals are --

- ♦ the employee/applicant,
- ♦ the head of the employing office, or
- ♦ the Director of the Office of Senate Fair Employment Practices.

The employee/applicant and the head of the employing office have 10 calendar days in which to file a request for review. The Director has an additional 5 calendar days in which to file a request for review. If the Senate Select Committee on Ethics is not asked to review a Board decision, then the Board decision is subject to judicial review on the motion of the employee/applicant, which is discussed in Step Five below.

When a request for review of a Board decision is filed, the Ethics Committee has no more than 75 days during the time the Senate is in session in which to act on an appeal. The Committee's review results in a "final" administrative decision on the complaint.

#### **STEP FIVE: JUDICIAL REVIEW**

The employee/applicant may appeal directly to the United States Court of Appeals for the Federal Circuit from a Hearing Board decision that has not been appealed to the Ethics Committee. Alternatively, when a Hearing Board decision is appealed to the Ethics Committee, an employee/applicant may appeal to the Federal Circuit following the decision by the Ethics Committee. A Senate employing office must accept the decision by the Ethics Committee and may not appeal to the Federal Circuit from either a decision of a hearing board or of the Ethics Committee.

#### **FOR FURTHER INFORMATION**

For additional information, contact the Office, which is located in Suite 103 of the Hart Senate Office Building. The telephone number is 202-224-6666; the Telecommunication Device for the Deaf (TDD) number is 202-224-6667; and the FAX number is 202-228-8666. You may write to the Office at the following address:

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*All contacts with the Office are handled in the strictest confidence. No one outside the Office will be notified of the contact without the permission of the person who initiates the contact.*

This publication is available in Braille, large print, and electronic file on computer disk. To obtain accessible formats, call the Office of Senate Fair Employment Practices or write the Office at the above address.

The information contained in this pamphlet is intended as a general overview, and does not carry the force of legal opinion.

December 20, 1992

GPO : 1992 O-61-587

## PROHIBITIONS AGAINST DISCRIMINATION IN SENATE EMPLOYMENT AND OTHER IMPROPER CONDUCT

The United States Senate has two processes for addressing allegations of employment discrimination, including sexual harassment. Each of these processes serves distinctive purposes. The process for redressing injury to an individual harmed by employment discrimination is governed by Title III of the Civil Rights Act of 1991, which provides for administrative proceedings and judicial review. That process is initiated by the aggrieved individual through the Office of Senate Fair Employment Practices. The Senate also has a process for the consideration of disciplinary action for improper conduct which is administered by the Senate Select Committee on Ethics. The Ethics Committee process may be initiated by an individual with personal knowledge of the alleged improper conduct, such as an employee alleging employment discrimination, or by others with information about the alleged improper conduct.

### OFFICE OF SENATE FAIR EMPLOYMENT PRACTICES

Title III of the Civil Rights Act of 1991 applies to the Senate the same prohibitions on employment discrimination that apply throughout the government and in the private sector. It also established an independent dispute resolution process to enforce the prohibitions against discrimination in Senate employment and established the Office of Senate Fair Employment Practices (the Office) to administer that process and to "heighten awareness of employee rights in order to prevent violations from occurring."

Title III prohibits employment discrimination, as defined by the following statutes:

<u>STATUTE</u>	<u>PROTECTED STATUS</u>
1. Title VII of the Civil Rights Act of 1964	race, color, religion, sex (including sexual harassment), national origin
2. Age Discrimination In Employment Act of 1967	age 40 and older
3. Rehabilitation Act of 1973	handicapping condition or
4. Americans With Disabilities Act of 1990	disability

Under Title III of the Civil Rights Act of 1991, court interpretations of the conduct prohibited by these four statutes apply to Senate employment as well. For example, courts have interpreted the Title VII prohibition on sex discrimination to include a prohibition on sexual harassment. Accordingly, sexual harassment, as defined by courts interpreting Title VII, is prohibited in Senate employment just as it is prohibited in other government entities and in the private sector.

## THE DISPUTE RESOLUTION PROCESS

### Coverage & Timely Filing

The statutory prohibitions protect all employees, applicants for employment, and former employees. Such an aggrieved individual must initiate the Senate process within 180 days after the alleged discriminatory event, which is the same as the time limit that applies to claims under Title VII for the private sector.

### Remedies

The remedies available to Senate employees, who successfully prove a case of discrimination, include relief (such as reinstatement, hiring, and back pay) and attorney's fees. These remedies are identical to the provisions for private sector and other government employees. Furthermore, Senate employees can receive full compensatory damages for pain and suffering, whereas such compensatory damages under the Civil Rights Act of 1991 are limited for private sector and other government employees. Finally, punitive damages are not available against any government entity, including the Senate. The objective of such damages is to punish the wrongdoer, and paying tax dollars to the injured employee to punish a public official does not serve that function. Other procedures are available within the government to discipline public officials.

### Process

The primary difference in the application of these anti-discrimination statutes in the government and private sectors, on the one hand, and in the Senate, on the other hand, is in the enforcement process. Although in the Senate process, as well as the process created for certain Presidential appointees and senior State officials, there is no right to initiate a proceeding in a federal district court, there is administrative adjudication of the complaint and review by a United States Court of Appeals, which for the Senate is in the United States Court of Appeals for the Federal Circuit. For the Senate, Title III creates a five step dispute resolution process, moving from mediation to litigation to administrative and judicial review.

1. **COUNSELING.** A counselor advises the employee as to his/her rights under the law. Counseling cannot last more than 30 days.
2. **MEDIATION.** The Director of the Office appoints a mediator to work with the employee and the employing office in an effort to resolve the dispute without litigation. Mediation can take 30 to 60 days.
3. **FORMAL COMPLAINT AND HEARING.** When a complaint is filed, the Director of the Office appoints a three member hearing board. Under Title III, the hearing board members may not be Members, officers, or staff of the Senate. The law requires that the Director of the Office appoint hearing board members after considering candidates recommended by the Federal Mediation and Conciliation Service (FMCS), the Administrative Conference of the United States (ACUS) and other such organizations. Using recommendations from

FMCS and ACUS, the Office has established a roster of hearing board members who are recognized independent experts in the adjudication of equal employment opportunity disputes. The hearing board conducts a formal administrative proceeding. This includes supervising the process by which both parties exchange information in preparation for the hearing, issuing subpoenas, receiving sworn testimony from witnesses, receiving documentary evidence, and hearing argument by both parties. The hearing must be conducted within 90 days after the formal complaint is filed and a decision must be issued within 45 days after the conclusion of the hearing.

4. **ADMINISTRATIVE APPEAL.** Either party to the hearing may appeal the decision of the hearing board to the Senate Select Committee on Ethics. The Committee has no more than 75 days during the time the Senate is in session in which to act on an appeal.
5. **JUDICIAL REVIEW.** An employee, applicant for employment, or former employee may appeal directly to the United States Court of Appeals for the Federal Circuit from a decision of a hearing board that has not been appealed to the Ethics Committee. Alternatively, when a hearing board decision has been appealed to the Ethics Committee, an employee, applicant for employment, or former employee may appeal to the Federal Circuit following the decision by the Ethics Committee. A Senate employing office must accept the Senate's final determination of a dispute and may not appeal to the Federal Circuit from either a decision of a hearing board or of the Ethics Committee.

## PREVENTING VIOLATIONS OF EMPLOYEE RIGHTS

In addition to the responsibility for administering the dispute resolution process, Title III also requires that the Office "implement programs to heighten awareness of employee rights in order to prevent violations from occurring." In carrying out this responsibility, the Office works with individual offices in the review of their personnel policies and in the development of sound, non-discriminatory policies and practices. The Office also conducts training sessions on various aspects of human resource management and on creating a positive and diverse work environment.

## SENATE SELECT COMMITTEE ON ETHICS

Allegations of employment discrimination may also be brought to the attention of the Ethics Committee, which is the bipartisan body within the Senate charged with investigating allegations of improper conduct by Members, officers, and employees of the Senate. The Ethics Committee's jurisdiction includes violations of the Senate's standing rule, now Rule 42, which since 1977 has prohibited discrimination in Senate employment. Title III of the Civil Rights Act of 1991, which created the Senate's new process for adjudication of employment discrimination claims, specifically reserved to the Ethics Committee its authority with respect to discipline for violations of Rule 42's prohibition on employment discrimination.

While Rule 42 is limited to employment discrimination, the Ethics Committee's jurisdiction is broader and extends to improper conduct that may reflect upon the Senate.

Under the Ethics Committee's procedures, allegations of violations of Rule 42 or other matters within the Committee's jurisdiction may be submitted to the Committee in the form of a sworn complaint by an individual with personal knowledge of the alleged violation, or by any person in the form of unsworn allegations or information about a violation. The Committee has a three-stage process for the consideration of the allegations, which may include public or non-public hearings. The Committee's process may lead to a recommendation of disciplinary action to the full Senate.





Congressional Research Service • The Library of Congress • Washington, D.C. 20540-7000

May 21, 1993

TO : Members  
Joint Committee on the Organization of Congress

FROM : American Law Division

SUBJECT : Summaries of Bills Introduced to Apply Various Laws to Congress

This memorandum is submitted in response to the committee's request for brief summaries of bills introduced in the 103rd Congress that would extend to Congress various civil rights, labor, and information laws.<sup>1</sup> The bills included in this memorandum were those found in a SCORPIO computer search. The results of that search do not necessarily encompass all bills that have been introduced on the subject. The bills revealed by our search are as follows:

H.R. 107 (Rep. Bartlett) [identical to H.R. 137 (Rep. Combest); H.R. 246 (Rep. McCandless), and H.R. 349 (Rep. Shays)];<sup>2</sup> Applies to Congress various civil rights, labor, information, ethics, and other laws including, *inter alia*, the Social Security Act, the National Labor Relations Act (NLRA), the Fair Labor Standards Act (FLSA), the Civil Rights Act of 1964, the Age Discrimination in Employment Act (ADEA), the Occupational Safety and Health Act (OSHA), the Rehabilitation Act of 1973, the Freedom of Information Act (FOIA), the Privacy Act, the Ethics in Government Act of 1978, and the Americans with Disabilities Act (ADA). Directs the House and Senate to promulgate implementing rules and regulations within 180 days following enactment. If either House fails to adopt such regulations, it will be subject to regulations of the relevant executive branch agency. Provides for judicial review by an aggrieved party in federal district court.

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<sup>1</sup> Some of the laws that the various bills cited in this memorandum would extend to Congress are already applicable to Congress, although in some cases the enforcement mechanism for the House and Senate differs from that applicable to covered private sector and executive branch entities. Some of the laws included within the scope of some of the bills are arguably inapplicable to Congress because Congress does not engage in the type of activities which are the subject of the laws. For background on the issue, see *Congress' Exemption from Selected Major Legislation: A Legal Analysis*, CRS Rept. No. 92-294A (Mar. 19, 1992).

<sup>2</sup> These bills are substantially similar to title I of H.R. 1545 (Rep. Nussle). The other titles of H.R. 1545 relate to congressional perks.

H.R. 165 (Rep. Duncan): Extends to Congress and the instrumentalities of Congress the FLSA, OSHA, and provisions of laws relating to part-time career employees (5 U.S.C. §§ 3401-3408). Not later than 120 days following enactment, implementing regulations are to be adopted by each House and the head of each instrumentality. Failure to adopt such regulations will result in the application of executive branch regulations.

H.R. 204 (Rep. Jacobs): Eliminates the exemption for Congress and for the United States from the application of various laws including, *inter alia*, the NLRA, FLSA, OSHA, FOIA, the Privacy Act, and the ADEA. Provides no specific enforcement mechanism, apparently assuming enforcement as in the case of covered private sector and executive branch entities.

H.R. 370 (Rep. Snowe): Extends the ADEA to the House, subject to remedies and procedures established under the House Fair Employment Practices Resolution (FEPR). Expresses the sense of the House that the Committee on House Administration should make recommendations to the House regarding the application of OSHA to the House. Provides a right of judicial review for House employees who have exhausted their remedies under FEPR. Extends the rights and protections of the ADEA and FLSA to employees of the congressional instrumentalities, subject to remedies and procedures to be adopted by each such instrumentality. Provides a right of judicial review under various laws for employees of the instrumentalities. Defines the "instrumentalities" to include the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the United States Botanic Garden.

H.R. 788 (Rep. Neal): Eliminates the exemption for Congress from the application of various laws, including, *inter alia*, the FLSA, the Equal Pay Act, the Civil Rights Act of 1964, FOIA, Privacy Act, ADEA, OSHA, and NLRA. Provides no special enforcement mechanism; accordingly, it appears that the laws would be applied to Congress in the same manner that they are applied to the private sector and to the executive branch.

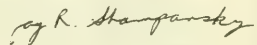
H.R. 1280 (Rep. Ford of Michigan): Revises OSHA. Directs the Committee on House Administration to establish and maintain an effective and comprehensive occupational safety and health program to protect the health and safety of House employees. The program is to provide for filing of OSHA-related complaints pursuant to the House procedure for the handling of fair employment practices complaints. Certain willful violations may be referred to the Attorney General.

H. Con. Res. 78 (Rep. Snowe): Establishes a commission to study compensation and other personnel policies and practices in the legislative branch. Directs the commission to develop a comprehensive plan for application of the principles of the Civil Rights Act of 1964 throughout the legislative branch.

S. 29 (Senator McCain): Extends to congressional employees the rights and protections under the Civil Rights Act of 1964, ADA, ADEA, the Rehabilitation Act of 1973, §§ 1977 and 1977A of the Revised Statutes, NLRA, FLSA, the Equal Pay Act, and OSHA. Provides for administrative enforcement before a hearing panel of the House or Senate Fair Employment Practice Office, or before such other entities as the House or Senate may designate. Provides a right of judicial review for congressional employees in cases of allegations of violations of their rights under the civil rights laws enumerated above; provides a right of judicial review for congressional employees in cases of allegations of violations of rights under certain other laws if a similarly situated complaining party could bring a civil action. Specifies that Members are to be personally liable for damages in proceedings brought by congressional employees; authorizes punitive damages in some cases. Also extends FOIA, the Privacy Act, and Title VI of the Ethics in Government Act of 1978 to Congress. Extends certain statutory rights and protections to presidential appointees and employees of congressional instrumentalities. Encourages the use of alternative means of dispute resolution (including settlement negotiations, conciliation, facilitation, mediation, fact-finding, and arbitration) to resolve various complaints of violations of statutory rights.

S. 103 (Senator Nickles): Extends to House and Senate employees protections under specified sections of FLSA, NLRA, and OSHA. Provides for the adoption of rules applying these laws to the House and Senate. Grants certain investigative powers to the directors of the House and Senate Offices of Fair Employment Practices. Authorizes judicial review for congressional employees in cases of allegations of violations of certain statutory rights.

S. 579 (Senator Smith): Extends to congressional employees rights and protections under the Civil Rights Act of 1964, ADEA, NLRA, §§ 1977 and 1977A of the Revised Statutes, FLSA, OSHA, and the Family and Medical Leave Act of 1993. Authorizes a congressional employee to bring an administrative action before an administrative agency to enforce his rights under the specified laws. Also provides a right of judicial review. Extends the Privacy Act and the provisions of Title VI of the Ethics in Government Act of 1978 to Congress.



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# CRS Report for Congress

Congressional Research Service • The Library of Congress

## **Sexual Harassment Policy: Rules Applicable to Congressional Offices**

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### **SUMMARY**

Policy on sexual harassment in congressional offices is governed by House and Senate rules covering employment discrimination, a category that has been interpreted by the Supreme Court to include sexual harassment. Recent actions taken by the House of Representatives and the Senate have provided congressional employees with limited coverage under Federal antidiscrimination laws that protect most public and private employees. Both chambers have established internal enforcement procedures to investigate and adjudicate claims.

### **BACKGROUND**

Federal statutes have for some years protected most other workers in the public and private sectors from sexual harassment. Under guidelines issued in 1980 by the Equal Employment Opportunity Commission (EEOC),<sup>1</sup> sexual harassment is described as

unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature...when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such an individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

With regard to liability for harassment by supervisors, the EEOC guidelines state that

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<sup>1</sup> *Guidelines on Discrimination Because of Sex*, 29 CFR 1604.11(a). In 1988, following the Supreme Court ruling in *Meritor Savings Bank, FSB v. Vinson*, 477 U.S. 57 (1986), the EEOC also issued a guidance memorandum setting out standards for evaluating charges of sexual harassment. *Daily Labor Review*, Oct. 18, 1988. p. E-1.



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... an employer ... is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employer knew or should have known of their occurrence.<sup>2</sup>

The EEOC guidelines also urge employers to establish an explicit policy against sexual harassment and to make available to employees a mechanism for hearing complaints and investigating and remedying the problem.<sup>3</sup>

Sexual harassment in the employment context was ruled in 1976 to be discrimination based on sex<sup>4</sup>, a violation of Title VII of the 1964 Civil Rights Act<sup>5</sup>, a designation affirmed in 1986 by the Supreme Court<sup>6</sup>. The Civil Rights Act as originally passed covered only private employers with more than 15 employees. In 1972, it was amended to include government employees, including Federal employees in the competitive service. Congressional employees are not in the competitive service and therefore were not covered.

In 1988, House rules banning employment discrimination were strengthened by a resolution linking interpretations of its ban to applicable Federal law.<sup>7</sup> Protection of Senate employees was extended in 1990 by an amendment to the Americans With Disabilities Act<sup>8</sup> providing coverage under the Civil Rights Act of 1964 and again the following year by passage of the Civil Rights Act of 1991.<sup>9</sup>

## HOUSE AND SENATE RULES

Beginning in the mid-Seventies, legislative action to protect congressional employees from employment discrimination took the form of policy statements amended to the rules of the House and Senate. Rule XLIII, clause 9, of the Rules of the House of Representatives, effective January 14, 1975, provides that

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<sup>2</sup> *Guidelines*, 29 CFR 1604.11(c).

<sup>3</sup> *Ibid.*, 29 CFR 1604.11(f).

<sup>4</sup> *Williams v. Saxbe*, 413 F. Supp. 654 (D.D.C., 1976).

<sup>5</sup> 42 U.S.C. 2000e-2(A)(1).

<sup>6</sup> *Meritor Savings Bank, FSB v. Vinson*.

<sup>7</sup> H.Res. 558, codified in 1991 as House rule LI.

<sup>8</sup> P.L. 101-336, §509.

<sup>9</sup> P.L. 102-166, Title III.



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A Member, officer, or employee of the House of Representatives shall not discharge or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, age, or national origin.

Rule XLII of the Standing Rules of the Senate, "Employment Practices," adopted September 8, 1976, provides that

No Member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—(a) fail or refuse to hire an individual; (b) discharge an individual; or (c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.

The House went on record again regarding employment discrimination on October 3, 1988 when it adopted H.Res. 558, made permanent on January 3, 1991, as new House rule LI,<sup>10</sup> which provides that

Personnel actions affecting employment positions in the House of Representatives shall be made free from discrimination based on race, color, national origin, religion, sex (including marital or parental status), handicap, or age, but may take into consideration domicile or political affiliation of such individual. [Sec. 2(a)]

An enforcement mechanism introduced under H.Res. 558 established an Office of Fair Employment Practices to receive complaints, provide counseling, mediate disputes, conduct hearings, and issue decisions. Final review of decisions is conducted by a panel that includes both House Members and employees. Remedies under House rules may include monetary compensation, injunctive relief, costs and attorney fees, and employment reinstatement or promotion.<sup>11</sup>

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<sup>10</sup> *Congressional Record*, Vol. 137, p. H 8.

<sup>11</sup> The Resolution's sponsors argued that once a statutory remedy was provided, civil action would not be possible because the courts would not accept jurisdiction of discrimination lawsuits by House employees. *Congressional Record*, Vol. 134, p. H 9307-8.

Sponsors were referring to the Supreme Court decision in *Davis v. Passman* in which the Court affirmed the right of a congressional employee, Shirley Davis, to sue her employer, Rep. Otto Passman, for sex discrimination under Due Process Clause of the Fifth Amendment, noting that she had "no effective means other than the judiciary to vindicate these rights." *Davis v. Passman*, 442 U.S.C. 228, 243 (1979). The establishment of an Office of Fair Employment Practices under H.Res. 558 creates the statutory damage remedy for congressional employees that the Court found lacking in the *Davis* case.

Sec. 2 (b) of the Resolution provides that interpretations of the ban on discrimination are to "reflect the principles of current law, as generally applicable to employment." In October, 1989, the House Committee on Standards of Official Conduct, in its first decision on a case alleging sexual harassment, found that sexual harassment is discrimination for purposes of House Rule XLIII, clause 9. In a report issued following this decision, the Committee noted that "the House rule was intended to parallel requirements applicable to other employers [and concluded] that this means Equal Employment Opportunity Commission law."<sup>12</sup>

While these modifications of House rules afford increased protection against discrimination generally, including sexual harassment, employees are limited to seeking redress through "in-house" procedures, and may not proceed further via the judicial system (see footnote #10), a right of Federal employees in the competitive service and most employees in the private sector.

The Senate in 1990 strengthened employee protection against discrimination by an amendment to the Americans With Disabilities Act,<sup>13</sup> extending coverage to Senate employees under the Disability Act itself, as well as under the Civil Rights Act of 1964 (see discussion above) and under two other fair employment statutes, the Age Discrimination in Employment Act of 1967 and the Rehabilitation Act of 1973. Passage of the 1991 Civil Rights Act provided Senate Employees with an Office of Fair Employment Practices similar to that in the House, but including judicial review of decisions when all "inside" procedures have been exhausted.<sup>14</sup> Remedies, "to the extent practicable," are the same as those available under the Acts named. However, the Senate has not issued any public ruling defining the extent to which sexual harassment may be deemed discrimination.

LG/jt

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<sup>12</sup> U.S. Congress. House. Committee on Standards of Official Conduct. In the Matter of Jim Bates. Report No. 101-293, 101st Cong., 1st Sess., Oct. 18, 1989. Washington, U.S. Govt. Print. Off., 1989. p. 9-10.

<sup>13</sup> P.L. 101-336, §509(a), 104 Stat. 327.

<sup>14</sup> The constitutionality of judicial review has not yet been tested.

# CRS Report for Congress

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## Family and Medical Leave Act: Provisions Applicable to Congressional Offices

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### SUMMARY

Coverage of congressional employees is specified under Title V of the Family and Medical Leave Act of 1993 (P.L. 103-3). Benefits generally parallel those legislated for the private sector and for other public sector employees. For congressional employees, however, complaints of violations of rights under the Act are addressed to House and Senate Offices of Fair Employment Practices, rather than to executive branch enforcement agencies.<sup>1</sup> Major provisions include 12 weeks of unpaid leave per year for the birth, adoption, or placement of a child; for care of a seriously ill child, spouse, or parent; or for the employee's own serious illness. Also included are job protection and provision for continuance of health care benefits. The Family and Medical Leave Act becomes effective on August 5, 1993.

### BACKGROUND

Partly in response to public pressure for lawmakers to apply to themselves the same employment statutes that they have enacted for other employers, Congress has included itself in much such legislation. The Americans With Disabilities Act of 1990 and the Civil Rights Act of 1991 are examples of this trend.<sup>2</sup> The evolution of parental or family leave legislation follows this pattern as well. When the proposal was first introduced in the 99th Congress, congressional employees were not covered. By the 101st Congress, House employees were included, and Senate employees were added in the 102nd.

Legislation to create family and medical leave benefits for employees in the workforce at-large came in response to major changes in the composition of the

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<sup>1</sup> For an explanation of problems arising from coverage of Congress by agencies of another branch of government, see U.S. Library of Congress. Congressional Research Service. Congress' Exemption From Selected Major Legislation: A Legal Analysis. Report No. 92-294 A by Jay Shampansky, Charles Dale, Jack Maakell, Kathleen S. Swendiman, Vincent E. Treacy, and Raymond J. Celada. Washington, 1992. p. 7.

<sup>2</sup> P.L. 101-336 and P.L. 102-166, respectively.



workforce and the economics of the family that have taken place during the last three decades. Greater numbers of women with young children are now wage earners, and many families are dependent upon these wages. Although varying leave benefits applicable to parental and temporary disability needs were available to many American workers through public and private employment plans, the United States was the only major industrialized country that did not have a national policy standardizing such benefits.

## CONGRESSIONAL EMPLOYEE ACCESS TO FAMILY BENEFITS PRIOR TO PASSAGE OF P.L. 103-3

Provision of benefits applicable to family needs of employees of congressional offices has varied according to the requirements of the employing Member, a pattern similar to that of other employers in the American workforce, where coverage has varied according to such factors as geography, industry and company size. Recent surveys by the Congressional Management Foundation (CMF)<sup>3</sup> show that all offices currently provide paid sick leave for an employee's own illness. In addition, many congressional offices provide leave for maternity and paternity, while others allow little or no leave for these purposes. In a number of instances, the maternity and paternity leave available is *paid* leave, a more generous policy than that required by the new legislation. CMF reports that four or more weeks of paid maternity leave are provided by 46 percent of House offices and 75 percent of Senate offices. In addition, one or more weeks of paid paternity leave are provided by 28 percent of House offices and 54 percent of Senate offices. Either kind of paid leave has been nonexistent for employees under the Federal Civil Service system and rare in State and local government offices.<sup>4</sup> At the other end of the spectrum, 4 percent of House and Senate offices have explicit policies against maternity leave, and 13 percent of House and Senate offices have such policies against paternity leave.

While offices not currently offering leave that meets the standards set out in the Act must now conform to the new provisions, the future of more generous leave benefits in congressional offices, such as paid leave, is unclear. Title IV of the Act protects leave policies already promulgated by an employer that are more generous.<sup>5</sup> However, since congressional employees are not covered under

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<sup>3</sup> See Congressional Management Foundation. U.S. House of Representatives Employment Practices: a study of staff salary, tenure, demographics and benefits. Washington, 1992. p. 85; and U.S. Senate Employment Practices: a study of staff salary, tenure, demographics and benefits. Washington, 1991. p. 94-95.

<sup>4</sup> Congressional Management Foundation, U.S. House of Representatives Employment Practices, p. 84 and U.S. Senate Employment Practices, p.95.

<sup>5</sup> (§402). Effect on Existing Employment Benefits.

(a) More Protective.— Nothing in this Act or any amendment of this Act shall be construed to diminish the obligation of any employer to comply with any . . . employment benefit program or plan that provides greater family or medical leave rights to employees than the rights established under this Act or any amendment made by this Act.



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Title IV, it would seem that continuation of policies that exceed the requirements of the Act is left to the discretion of each office.

## COVERAGE OF CONGRESSIONAL EMPLOYEES UNDER P.L. 103-3

Under Title V of P.L. 103-3, House and Senate employees receive essentially the same coverage, except that §104(b), excluding the highest paid 10 percent of employees, does not apply to House employees. Other differences relate primarily to enforcement procedures under House and Senate Offices of Fair Employment Practices,<sup>6</sup> as detailed under §501 (Senate employees) and §502 (House employees). Allegations of violations in the Senate are to be handled in accordance with §§304-313 of the Government Employee Rights Act of 1991.<sup>7</sup> In the House, applicable remedies and procedures are delineated under the Fair Employment Practices Resolution, rule LI of the Rules of the House of Representatives.

Under Title V, congressional employees are provided with the following benefits in common with most other employees in the private and public sectors, as defined in Title I, §102-105:

### Leave Requirement (§102)

Eligible employees<sup>8</sup> are entitled to 12 unpaid weeks of combined family and medical leave per year (1) to care for a newborn, newly adopted or newly placed foster child; (2) because of the serious health condition of a spouse, child, or parent; or (3) because of the employee's own serious health condition. Leave taken for birth or placement of a child must be taken within 12 months.

With the employer's agreement, the 12 weeks of leave may be taken on an intermittent or reduced basis when medically necessary due to the birth or placement of a child. Intermittent or reduced leave may also be taken for a serious health condition of a family member or the employee if medically

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(b) *Less Protective.*—The rights established for employees under this Act or any amendment made by this Act shall not be diminished by any . . . employment benefit program or plan.

<sup>6</sup> For more information on House and Senate Offices of Fair Employment Practices, see U.S. Library of Congress. Congressional Research Service. Congressional Offices of Fair Employment Practices: Summary of Authorizing Legislation and Side-by-Side Comparison. Report No. 92-588 Gov by Leslie Gladstone. Washington, 1992.

<sup>7</sup> Title III of the Civil Rights Act of 1991, P.L. 102-166.

<sup>8</sup> In the Senate, the term "eligible employee" is defined in §501(a) as a Senate employee; the term "employer" means an employing office. §502(a), covering House Employees, states that the rights and protections afforded under the Act "shall apply to any employee in an employment position and any employing authority of the House of Representatives."

Private sector employees and other employees covered by §101 become eligible after one year of employment with a given employer and at least 1250 hours of service.



## CRS-4

necessary, with or without the approval of the employer. If the employee knows in advance of a need for intermittent leave due to planned medical treatment, the employer may require the employee to transfer temporarily to an alternative position, with equivalent pay and benefits, that better accommodates the prospective absences.

Employers are allowed to require employees to substitute any of their paid vacation, personal, or sick leave for any part of the 12-week period, with the employer providing only enough unpaid leave to total 12 weeks. When need for leave is known in advance, such as for childbirth, child placement, or planned medical treatment, the employee must give the employer at least 30 days' notice, or such notice as is practicable. Employees needing leave for planned medical treatment also are required to make a reasonable effort to schedule treatment so as to disrupt the employer's business as little as possible.

Spouses employed by the same employer are limited to an aggregate leave of 12 weeks to care for a newly arrived child or a sick parent. When leave is needed because of the illness of a child or of the other spouse, each spouse is entitled to 12 weeks of leave.

**Certification (\$103)**

An employer may require an employee to provide medical certification "in a timely manner" to support a request for leave due to a serious health condition, either his or her own or that of a family member. Certification is to include the date on which the serious health condition began; the probable duration of the condition; appropriate medical facts regarding the condition; a statement that the employee is needed to care for a spouse, parent, or child (together with an estimate of the time required), or that the employee's own illness renders the employee unable to perform the functions of his or her position; and, in the case of reduced or intermittent leave, the expected schedule and duration of the treatments.

The employer may require that a second opinion be obtained at the employer's expense by a health care provider not employed by the employer. Should there be conflicting opinions, the employer may pay for a third provider whose opinion will be binding.

The employer may require subsequent recertification "on a reasonable basis."

**Employment and Benefits Protection (\$104)**

An employee returning from leave must be restored to the same position or given a position that is equivalent in benefits, pay, and other terms and conditions of employment. No employee taking leave is to lose any benefit accrued before the leave, but accrual of benefits during leave is not required. As a condition of restoration, an employee taking leave due to his or her own serious health condition may be required to provide certification from a health

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care provider that the employee is able to perform the functions of his or her position. An employee taking leave may be required by the employer to report periodically on the status of the family or medical condition necessitating the leave and on his or her intention to return to work.

During leave, pre-existing health benefits are to be maintained at the same level and under the same conditions as provided prior to leave. If an employee fails to return at the end of leave, an employer may recover any premiums paid on the employee's behalf, except in cases where the employee has a continuation, recurrence, or onset of a serious health condition or because of circumstances beyond the control of the employee. In such a case, reasons for not returning are subject to certification.

**Prohibited Acts (§105)**

An employer is prohibited from interfering with or restraining an employee's right to exercise the provisions of the Act. In addition, an employer may not discharge or otherwise discriminate against any employee who opposes any practice made unlawful under the Act, nor interfere with any proceedings or inquiries related to any right provided by the Act.

# CRS Report for Congress

## The Application of the Freedom of Information Act to Congress: A Legal Analysis

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Congressional Research Service • The Library of Congress

## THE APPLICATION OF THE FREEDOM OF INFORMATION ACT TO CONGRESS: A LEGAL ANALYSIS

### SUMMARY

Congress has been criticized by the press, the President, and by many Members themselves for being exempt from various laws which apply to the private sector and/or to the executive branch. Attention has focussed primarily on the congressional exemption from equal employment opportunity and labor legislation, but some critics have also noted that Congress is exempt from the Freedom of Information Act (FOIA). This report will provide an overview of selected major legal issues that might be raised if the FOIA were to be extended to Congress. The precise questions presented may differ depending on the particulars of any such legislation.

The Freedom of Information Act, passed in 1966, establishes a statutory right of public access to a vast amount of government information. The act is intended "to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed." Yet the act recognizes that the desire to have an informed public may at times conflict with other societal goals, such as preserving the confidentiality of certain matters (e.g., those relating to national security and criminal investigations). The FOIA attempts to accommodate these different concerns.

It might be argued that Congress should be subject to the same information disclosure requirements imposed on the executive branch and that the purpose of the act--"ensur[ing] an informed citizenry, vital to the functioning of a democratic society"--would be served by congressional coverage. On the other hand, it might be contended that applying the FOIA to Congress would impinge on Congress' constitutionally-based privilege with regard to its papers, pose administrative burdens on congressional offices, and involve Congress in considerable litigation. In any event, not all congressional records would necessarily be subject to disclosure under the FOIA since they might come within one or more of the act's nine exemptions.

In considering the matter of public access to congressional information, Congress would seem to have several major options. (1) Maintain the *status quo*, publish certain information at regular intervals, publish other information on an *ad hoc* basis, and respond to judicial subpoenas in accordance with House and Senate rules and precedents. (2) Apply the FOIA to Congress in a comprehensive fashion, perhaps explicitly waiving in the statute constitutional immunity for congressional papers. (3) Apply a FOIA provision to Congress that is drafted to take into account the constitutional protections for certain congressional papers and that would limit disclosure to papers that are not protected. Such a provision might include a procedure that would allow for assertion of constitutional objections to requests for House documents. (4) Instead of applying the FOIA to Congress, increase public access to congressional information by publishing more information in House and Senate documents, reports, etc., and/or by making more information available for public inspection.

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## THE APPLICATION OF THE FREEDOM OF INFORMATION ACT TO CONGRESS: A LEGAL ANALYSIS

### INTRODUCTION

Congress has been widely criticized by the press,<sup>1</sup> the President,<sup>2</sup> and by many Members themselves for being exempt from various laws which apply to the private sector and/or to the executive branch. Articles and editorials on the subject have argued that such congressional exemptions place Congress "above the laws" that are applicable to other citizens or public officials. Attention has focussed primarily on congressional exemptions from equal employment opportunity and labor legislation, but some critics have also noted that Congress is exempt from the Freedom of Information Act (FOIA).<sup>3</sup> Both the House and Senate have acted recently to apply certain civil rights and labor laws to their employees but to date Congress has not applied the FOIA to itself, although bills have been introduced which would subject the House and Senate to the act. This report will provide an overview of selected major legal issues that might be

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<sup>1</sup> See, e.g., *A New Political Ball Game*, Wall Street Journal, Oct. 16, 1991, at p. A16; *'The Imperial Congress'—Living Above the Law*, 11 Nat'l Journal 911 (June 2, 1979); *Above the Law*, Wall Street Journal, Feb. 8, 1988, at p. 24; *Hill Workers Push for Job Protections Congress Denied by Labor Exemptions*, 36 Cong. Q. 337 (Feb. 11, 1978).

<sup>2</sup> The text of President Bush's October 24, 1991, speech on the subject is reprinted at 49 Cong. Q. 3151 (Oct. 26, 1991). Excerpts from responses to the President's speech by Senator Mitchell, Senator Ford, and Speaker Foley are reprinted, *id.* at 3153.

<sup>3</sup> 5 U.S.C. § 552. Extension of the FOIA to Congress is not a new idea. In 1977, the National Study Commission on Records and Documents of Federal Officials recommended that "all institutional records of Congress should be Federal Records and subject to the provisions of the Freedom of Information Act and the principles of the Privacy Act...." *Final Report of the National Study Commission on Records and Documents of Federal Officials*, at 1 (1977). *But cf. Papers of Federal Officials: Public Ownership and Access*, 34 Record of the Assn. of the Bar of the City of New York 505, 513 (1979).

raised if the FOIA<sup>4</sup> were to be extended to Congress.<sup>5</sup> The precise questions presented may differ depending on the particulars of any such legislation.

### THE ARGUMENTS IN BRIEF

It might be argued that Congress should be subject to the same information disclosure requirements imposed on the executive branch and that the purpose of the Act--"ensur[ing] an informed citizenry, vital to the functioning of a democratic society"<sup>6</sup>--would be served by congressional coverage. On the other hand, it might be contended that applying the FOIA to Congress would impinge on Congress' constitutionally-based privilege with regard to its papers, pose administrative burdens on congressional offices, and involve Congress in considerable litigation. In any event, not all congressional records would necessarily be subject to disclosure under the FOIA since they might come within one or more of the Act's nine exemptions.<sup>7</sup>

### AN OVERVIEW OF THE FREEDOM OF INFORMATION ACT

The Freedom of Information Act, passed in 1966, establishes a statutory right of public access to a vast amount of government information. The act is intended "to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed."<sup>8</sup> Yet the act recognizes that the desire to have an informed public may at times conflict with other societal goals, such as preserving the confidentiality of certain matters (e.g., those relating to national

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<sup>4</sup> Although the discussion here is limited to the FOIA, it is noted that similar issues would seem to be raised by proposals to extend the Privacy Act of 1974 to Congress.

<sup>6</sup> For a detailed treatment of the congressional exemption from other laws and recent House and Senate action to extend certain laws to their employees, see *Congress' Exemption from Selected Major Legislation: A Legal Analysis*, CRS Report No. 92-294A (Mar. 19, 1992). Both the legal and policy issues presented by the proposed application of the FOIA to Congress differ somewhat from those raised by the application of civil rights and labor legislation to Congress.

<sup>6</sup> *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978).

<sup>7</sup> 5 U.S.C. § 552(b).

<sup>8</sup> *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. at 242.

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security and criminal investigations).<sup>9</sup> The FOIA attempts to accommodate these different concerns.<sup>10</sup>

The FOIA requires publication in the Federal Register of various information, such as descriptions of agency organization and procedures,<sup>11</sup> and also requires that certain materials, such as specific policy statements and certain staff manuals, be made available for public inspection.<sup>12</sup> The act also provides that all other records are to be disclosed in response to a specific request by any person,<sup>13</sup> except records that fall under one of the nine exemptions from the disclosure requirement.<sup>14</sup> The act provides for both administrative and judicial appeals.<sup>15</sup>

The FOIA applies to "agencies," defined to include "any executive department, military department, government corporation, government controlled corporation, or other establishment in the executive branch of the government (including the Executive Office of the President), or any independent regulatory agency."<sup>16</sup> Federal elected officials (including the President, Vice President, and Members of Congress) and the federal judiciary are outside the scope of the act. Certain legislative branch entities, although not covered by the FOIA, are required by their statutory charters to disclose

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<sup>9</sup> S. Rept. No. 813, 89th Cong., 1st Sess. 3 (1965).

<sup>10</sup> See generally Franklin, *Guidebook to the Freedom of Information and Privacy Acts* § 1.02 (1986)(reprinting "Short Guide to the Freedom of Information Act," prepared by the Office of Information and Privacy, Department of Justice).

<sup>11</sup> 5 U.S.C. § 552(a)(1).

<sup>12</sup> 5 U.S.C. § 552(a)(2).

<sup>13</sup> 5 U.S.C. § 552(a)(3).

<sup>14</sup> 5 U.S.C. § 552(b).

<sup>15</sup> 5 U.S.C. § 552(a)(4).

<sup>16</sup> 5 U.S.C. § 552(f).

specified information<sup>17</sup> while other legislative branch entities have adopted disclosure policies that are consistent with the purpose of the FOIA.<sup>18</sup>

The FOIA "does not apply to private companies; persons who receive federal contracts or grants; tax-exempt organizations; or state or local governments." However, "all states and some localities have passed laws like the FOIA...[and] there are other federal and state laws that may permit access to documents held by organizations not covered by the federal FOIA."<sup>19</sup>

Although the FOIA, by its terms, specifically applies to the Executive Office of the President,<sup>20</sup> the legislative history clarifies that "agency" does not encompass "the President's immediate personal staff or units in the Executive Office whose sole function is to advise and assist the President."<sup>21</sup> However,

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<sup>17</sup> The Office of Technology Assessment (OTA) is authorized to make information, surveys, studies, reports, and findings that are produced by the agency available to the public except where disclosure would violate security statutes or where the OTA Board determines that it is necessary or advisable to withhold the information in accordance with one or more of the exemptions under the FOIA. 2 U.S.C. § 472(e). The Congressional Budget Office (CBO) is required to make various information, data, estimates, and statistics available for public copying, except (a) information which is specifically exempted from disclosure by law; (b) information which relates to trade secrets or confidential financial or commercial information; (c) personnel or medical data or similar data the disclosure of which would constitute a clearly unwarranted invasion of privacy; and (d) matters which must be kept secret in the interests of national defense or foreign relations. CBO is not authorized to disclose information and data obtained at the request of a committee or Member if the committee or Member has instructed the agency not to make the information available for public copying. 2 U.S.C. § 603.

<sup>18</sup> 4 C.F.R. §§ 81.1--81.8 (General Accounting Office); 36 C.F.R. §§ 703.1--703.6 (Library of Congress).

<sup>19</sup> *A Citizen's Guide on Using the Freedom of Information Act and the Privacy Act of 1974 to Request Government Records*, H. Rept. No. 102-146, 102d Cong., 1st Sess. 5 (1991).

<sup>20</sup> 5 U.S.C. § 552(f).

<sup>21</sup> H.R. Rept. No. 1380, 93d Cong., 2d Sess. 15 (1974). See also S. Rep. No. 1200, 93d Cong., 2d Sess. 15 (1974); *Soucie v. David*, 448 F.2d 1067 (D.C.Cir. 1971)(announcing test subsequently adopted in legislative history); *Kissinger v. Reporters Committee for Freedom of the Press*, 445 U.S. 136, 155-56 (1980)(citing legislative history in holding that telephone notes of Assistant to the President were not "agency records"); *Rushford v. Council of Economic Advisers*, 762 F.2d 1038 (D.C.Cir. 1985). The limited application of FOIA to the Executive Office of the President is due to separation of powers and executive privilege considerations.



pursuant to a provision of the Presidential Records Act of 1978,<sup>22</sup> the FOIA does apply (with certain limitations and delays) to the records of former Presidents.

## CURRENT CONGRESSIONAL PRACTICE CONCERNING INFORMATION DISCLOSURE

### TYPES OF CONGRESSIONAL PAPERS

As a preliminary matter, it may be helpful to draw certain distinctions in regard to the types of congressional papers and documents. These distinctions may have a bearing on questions such as the procedure for access to, and constitutional protections for, the papers and documents.

There are at least three major types of congressional papers: (a) papers relating to the legislative process; (b) papers relating to the internal administrative operations of Congress, its Members, and staff; and (c) communications with constituents, the press, and executive agencies. Congressional records may be (a) papers of the House or Senate; (b) papers of Members; or (c) papers of committees and subcommittees. Finally, congressional papers may be either (a) current records that are being regularly used on a day-to-day basis or (b) noncurrent records that have been or could be archived.<sup>23</sup>

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<sup>22</sup> 44 U.S.C. § 2204(c).

<sup>23</sup> The focus of the present analysis is on the possible application of the FOIA to current congressional records. For a discussion of the availability of House records that are not currently in use, see *Background Information on Records of the House of Representatives Including Studies of Archival Practices of State and National Legislatures and A Summary of H. Res. 419*, 100th Cong, 2d Sess. (1988)(Subcom. Print of the Subcommittee on Rules of the House of the Committee on Rules). See also House Rule XXXVI (preservation and availability of noncurrent records of the House); Senate Rule XI, cl. 2 (disposition of, and access to, noncurrent records of the Senate).

Following the release of the movie *JFK*, there has been renewed interest in the assassination of President Kennedy and a resolution (H. Res. 325, 102d Cong.) was introduced which would authorize the release of unpublished records of the former House Select Committee on Assassinations which are now stored under seal at the National Archives. These records of the committee, which was established in the late 1970's to probe the assassination of Kennedy, include notes of staff interviews, files on informants, and a committee staff report. *Washington Post*, Jan. 21, 1992, at p. A17. Bills have also been introduced which would establish a procedure for public disclosure of various files compiled during investigations of the Kennedy assassination, including those of the Warren Commission and of the House Assassinations Committee. See H.J. Res. 454, 102d Cong.; S.J. Res. 282, 102d Cong.



## INFORMATION ROUTINELY DISCLOSED BY CONGRESS

The FOIA provides a statutory right of access to a wide range of government information so as to allow citizens to be informed about government affairs. Although it is not covered by the act, Congress makes available to the public an extensive amount of information about congressional activities. The Constitution requires that each House keep a Journal of its proceedings,<sup>24</sup> but that document includes only the minutes of official actions and is not a record of debate.<sup>25</sup> Pursuant to statute,<sup>26</sup> the *Congressional Record* provides a substantially verbatim account of debate on the floor of both chambers. There is also standing statutory authorization to publish a variety of other materials evidencing congressional proceedings and other matters, including bills, resolutions, public and private laws, House and Senate documents and reports, House and Senate Manuals, and the *Congressional Directory*.<sup>27</sup> Committees frequently publish their hearings, legislative calendars, and other documents (called "committee prints"). The public may obtain access to these materials under the depository library program<sup>28</sup> and in a variety of other ways, depending upon the particular publication involved. In addition to information about its legislative proceedings, Congress also publishes a considerable amount of information about the administrative and fiscal aspects of the operations of the House and Senate and about individual Members.<sup>29</sup>

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<sup>24</sup> Art. I, § 5, cl. 3.

<sup>25</sup> Deschler's *Precedents of the U.S. House of Representatives*, ch. 5, § 15, at p. 357 (1977)[hereinafter cited as Deschler's *Precedents*].

<sup>26</sup> 44 U.S.C. § 901.

<sup>27</sup> 44 U.S.C. §§ 701-741.

<sup>28</sup> 44 U.S.C. § 1901 *et seq.*

<sup>29</sup> See, e.g., quarterly reports of House receipts and expenditures of appropriations and other funds, submitted pursuant to 2 U.S.C. § 104a and the direction of the Committee on House Administration; semiannual statements of Senate receipts and expenditures, submitted pursuant to 2 U.S.C. § 104a; House Rule XLIV, cl. 1 (mandating publication as House document of financial disclosure reports of Members); 22 U.S.C. §§ 276c-1, 1754(b)(public availability of certain information concerning expenditures by Members of Congress for foreign travel).

After a GAO report disclosed numerous overdrafts at the House Bank, the House ordered an inquiry by the Committee on Standards of Official Conduct. H. Res. 236, 102d Cong. The report of the committee recommended public disclosure of the names and pertinent information regarding the banking activities of those found by the committee to have abused their banking privileges. H. Rept. No. 102-452, 102d Cong, 2d Sess. 29-30 (1992). After considerable debate, the House instructed the committee to disclose the names and pertinent account information of Members and former Members (continued)

## INFORMATION NOT DISCLOSED BY CONGRESS

Although Congress makes available to the public a significant amount of information relating to the legislative process and to certain internal administrative operations of the House and Senate, not all the documents and papers of both bodies are subject to public disclosure. Not even all documents relating to legislation are generally accessible. For example, some committee hearings are not published, and other materials relating to legislation (such as internal staff memoranda to Members) are generally not disclosed. Furthermore, there are restrictions on the release of evidence and testimony received by committees in executive session.<sup>30</sup> Certain administrative records of both bodies are not publicly available. And it is apparently the general policy of many Members to preserve the confidentiality of their communications with their constituents.

## THE PRIVILEGES OF THE HOUSE AND SENATE

Litigants in civil cases, prosecutors and defendants in criminal actions,<sup>31</sup> journalists, and other citizens have at times sought the disclosure of various

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of the House who abused the privileges of the House Bank (H. Res. 393, 102d Cong., 138 *Cong. Rec.* H1225-40 (daily ed. Mar. 12, 1992)) and to make certain further disclosure of account information of those Members and former Members who the committee determined had checks held by the Bank (H. Res. 396, 102d Cong., 138 *Cong. Rec.* H1240-57 (daily ed. Mar. 12, 1992)). The disclosure required by H. Res. 393 was subsequently made in a statement by the chairman of the subcommittee that conducted the inquiry. 138 *Cong. Rec.* H2241-42 (daily ed. Apr. 1, 1992). The disclosure required by H. Res. 396 was made by the House Committee on Standards of Official Conduct on Apr. 16, 1992. 50 *Cong. Q'tly.* 991 (Apr. 18, 1992).

<sup>30</sup> See, e.g., House Rule XI, cl. 2(k)(7). See also *Constitution, Jefferson's Manual, and Rules of the House of Representatives—One Hundred Second Congress*, H. Doc. No. 101-256, 101st Cong., 2d Sess. § 712 (1991)[hereafter cited as *House Manual*]; *Inquiry into the Matter of Billy Carter and Libya, Hearings before the Subcommittee to Investigate the Activities of Individuals Representing the Interests of Foreign Governments of the Senate Judiciary Committee*, 96th Cong., 2d Sess., Vol. III (App.) at 1689-1701 (1980)(CRS memorandum on congressional practice concerning release of materials received in executive session).

<sup>31</sup> For an historical treatment and overview of the subject, see Kaye, *Congressional Papers and Judicial Subpoenas*, 23 U.C.L.A. L. Rev. 57 (1975)[hereinafter cited as *Judicial Subpoenas*]. See also Deschler's *Precedents*, ch. 6, §§ 23.7-23.9; ch. 11, §§ 14-18; *Nixon v. Sirica*, 487 F.2d 700, 738-40 (D.C.Cir. 1973)(MacKinnon, J., concurring in part and dissenting in part).

congressional documents that were not generally available to the public.<sup>32</sup> Such requests and demands, although often complied with by both bodies,<sup>33</sup> implicate the privileges of the House and Senate.

Section XVI of *Jefferson's Manual* specifies that "the Clerk is to let no journal, records, accounts, or papers be taken from the table or out of his custody,"<sup>34</sup> and both the House<sup>35</sup> and the Senate<sup>36</sup> have rules which prohibit the withdrawal of their papers without the approval of the body.<sup>37</sup> The procedure for response by the House to judicial subpoenas is now governed by House Rule L, which provides for compliance with such subpoenas consistent with "the privileges and rights of the House...."<sup>38</sup> However, the rule prohibits

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<sup>32</sup> For an overview of issues relating to disclosure of congressional papers and their utility in research, see generally Relyea, *Public Access to Congress' Records: Present Policy and Reform Considerations*, 2 Government Information Quarterly 235 (1985). See also *Understanding Congress: Research Perspectives*, H. Doc. No. 101-241, 101st Cong., 2d Sess. (1991).

<sup>33</sup> Citations to numerous resolutions authorizing compliance with subpoenas for congressional papers are collected in Kaye, *Congressional Papers, Judicial Subpoenas, and the Constitution*, 24 U.C.L.A. L. Rev. 523-24, n.2 (1977)[hereinafter cited as *Judicial Subpoenas and the Constitution*].

<sup>34</sup> *Jefferson's Manual*, which was based on the law of Parliament (see *House Manual*, *supra* note 30, at § 284) was prepared by Thomas Jefferson for his own use when, in his capacity as Vice President, he was President of the Senate. The document is reprinted in *House Manual*, *supra*.

<sup>35</sup> House Rule XXXVII provides that "no memorial or other paper presented to the House shall be withdrawn from its files without its leave, and if withdrawn therefrom certified copies thereof shall be left in the office of the Clerk...."

<sup>36</sup> Senate Rule XI, cl. 1, states that "no memorial or other paper presented to the Senate, except original treaties finally acted upon, shall be withdrawn from its files except by order of the Senate."

<sup>37</sup> Although both the House rule (*supra* note 35) and that of the Senate (*supra* note 36) refer to papers "presented to" the bodies, and thus, on their face, would not seem to apply to papers created by either the House or the Senate, a commentator states that in practice no such distinction has been drawn in the application of the rules. Grabow, *Congressional Investigations: Law and Practice*, § 7.5 at p. 217 n.109 (1988).

<sup>38</sup> House Rule L is based on H. Res. 722, 96th Cong. See *House Rules Manual*, *supra* note 30, at § 946. For a detailed discussion of the purpose and background of H. Res. 722, see H. Rept. No. 96-1116, 96th Cong., 2d Sess. (1980). See also Deschler's *Procedure in the U.S. House of Representatives* (97th Cong.), ch. 11, § 10.

the disclosure of the minutes or transcripts of executive sessions, including evidence of witnesses given in respect to such sessions. The Senate adopts resolutions authorizing compliance with judicial subpoenas but often barring production of matters determined to be privileged from disclosure.<sup>39</sup>

### **Constitutional Foundation for Congressional Privilege in Regard to Papers**

The privilege asserted by the House and Senate over their papers is rooted in the Constitution,<sup>40</sup> principally the speech or debate clause,<sup>41</sup> the publication clause,<sup>42</sup> and the separation of powers doctrine.<sup>43</sup> Other

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<sup>39</sup> Grabow, *supra* note 37, at § 7.5, p. 217. Some resolutions have authorized production of documents or testimony only upon a judicial determination of materiality and relevancy (e.g., S. Res. 322, 86th Cong., 106 *Cong. Rec.* 10649 (1960); S. Res. 70, 93d Cong., 119 *Cong. Rec.* 5182 (1973)); some have allowed only public proceedings to be released (e.g., S. Res. 373, 92d Cong., 118 *Cong. Rec.* 33052 (1972)); and some have restricted disclosures that would be protected by the attorney-client privilege relationship between committee counsel and Members (e.g., S. Res. 471, 91st Cong., 116 *Cong. Rec.* 33779 (1970)). See also note 33, *supra*.

<sup>40</sup> According to one authority, the earliest House and Senate precedents involving privilege in regard to the disclosure of congressional papers may have been grounded not on constitutional considerations but rather on the desire of each House to preserve its original papers and to preclude any outside interference with congressional access to these papers. See *Judicial Subpoenas*, *supra* note 31, at 63 *et seq.*

<sup>41</sup> Art. I, § 6, cl. 1. See notes 48-61 and accompanying text, *infra*.

<sup>42</sup> Art. I, § 5, cl. 3 states: "Each House shall keep a Journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy...." For an analysis of the publication clause as a possible basis for the privilege as to congressional papers, see *Judicial Subpoenas and the Constitution*, *supra* note 33, at 526-36. After concluding that several lower courts (including *United States v. Ehrlichman*, 389 F. Supp. 95 (D.D.C. 1974), *aff'd on other grounds sub nom. United States v. Liddy*, 542 F. 2d 76, 82-83 (D.C.Cir. 1976); *United States v. Calley*, 46 C.M.R. 1131 (A.C.M.R.), *aff'd on other grounds*, 48 C.M.R. 19 (C.M.R. 1973)) have mistakenly relied on the publication clause as a constitutional underpinning for the privilege, it is suggested (*Judicial Subpoenas and the Constitution*, at 531 *et seq.*) that the clause gives Congress only the authority to omit certain matters from its published records, and does not allow Congress to withhold papers sought by the courts. Furthermore, it is argued that the clause was intended to guarantee publicity of congressional proceedings, not to provide Congress with authority to withhold information. *Id.*; see also 2 Story, *Commentaries on the Constitution of the United States* § 840 (1833), *quoted with approval in Field v. Clark*, 143 U.S. 649, 670 (1892); Reinstein and Silverglate, (continued)



constitutional provisions, including the privilege from arrest<sup>44</sup> and the

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*Legislative Privilege and the Separation of Powers*, 86 Harv. L. Rev. 1113, 1137-38 (1973). Finally, it is contended that the secrecy exception to the publication clause was intended to cover only certain types of congressional proceedings, such as those relating to treaties and wars. *Judicial Subpoenas and the Constitution*, at 533. See also *id.* at 533 n.48, citing conflicting evidence on this point from the constitutional ratification debates in the states.

Several points might be made in response to the arguments noted above. First, there is no definitive judicial interpretation of the clause. Second, it is uncertain whether the authority granted to Congress to decline to publish parts of its proceedings would be effective if the clause is not also understood to permit Congress to decline to disclose secret information in other ways, such as in response to judicial subpoenas. And third, the text of the clause clearly is not limited to certain types of proceedings but seemingly allows Congress to exclude from its published proceedings any "parts as may in their judgment require secrecy...." For a liberal interpretation of the scope of the secrecy clause, see Note, *The CIA's Secret Funding and the Constitution*, 84 Yale L. J. 608, 624-25 (1975). See also *Goland v. CIA*, 607 F.2d 339, 346 (D.C.Cir. 1978), *cert. denied*, 445 U.S. 927 (1980)(citing publication clause as sole constitutional basis of Congress' "undoubted authority to keep its records secret").

<sup>43</sup> For a critical analysis of the separation of powers doctrine as a possible basis for the privilege over congressional papers, see *Judicial Subpoenas and the Constitution*, *supra* note 33, at 572-76. It is argued (*id.* at 574-75) by analogy to *United States v. Nixon*, 418 U.S. 683 (1974)(upholding a subpoena to the President for production of evidence in a judicial proceeding despite a claim of executive privilege), that the courts have the constitutional authority to rule on claims that subpoenas for papers violate congressional privileges.

<sup>44</sup> Art. I, § 6, cl. 1 (Senators and Representatives "shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same...."). "The purpose of the exemption is not for the benefit or even the convenience of individual legislators. It is to prevent interference with the legislative process." Story, *Commentaries on the Constitution of the United States* § 435 (1833). The privilege has been read narrowly by the courts. The exception in the clause for "treason, felony and breach of the peace" has been held to encompass "all criminal offenses." *Williamson v. United States*, 207 U.S. 425, 446 (1908). The privilege immunizes a Member from arrest in civil cases, but not from service of a summons. *Long v. Ansell*, 293 U.S. 76 (1934). It has also been held that the privilege does not bar serving a Member with a subpoena in a civil action, even during a session of Congress, but he cannot be arrested during a session for noncompliance. *James v. Powell*, 26 A.D.2d 295, 274 N.Y.S.2d 192, 195 (1966). See also *Yuma Greyhound Park, Inc. v. Hardy*, 106 Ariz. 178, 472 P.2d 47 (1970). The privilege does not bar service of process on a Member to compel his attendance as a witness in a criminal case. *Gravel v. United States*, 408 U.S. 606, (continued)



congressional rulemaking authority,<sup>46</sup> also may be relevant. The focus of the discussion here is on speech or debate immunity, which may provide the broadest and strongest constitutional basis<sup>46</sup> for the privilege in regard to congressional papers.<sup>47</sup>

The protection of the speech or debate clause is not limited to words actually spoken in the course of floor debate, but extends also to "committee reports, resolutions, and the act of voting,"<sup>48</sup> to hearings,<sup>49</sup> and to other "things generally done in a session of the House by one of its Members in relation to the business before it."<sup>50</sup> The clause not only provides immunity from suit but also can be invoked in response to a subpoena for testimony or legislative documents.<sup>51</sup> However, the Court held in *Gravel v. United States*

615 (1972)(dicta); *United States v. Cooper*, 4 Dall. (4 U.S.) 341 (C.C. Pa. 1800)(Chase, J., sitting on Circuit).

Although the privilege from arrest does not prohibit serving a Member with a summons or a subpoena (see generally *Judicial Subpoenas and the Constitution*, *supra* note 33, at 536-46, concluding (*id.* at 546) that the privilege "is not a barrier to judicial discovery of congressional papers"), both the House and Senate "have asserted a collective right to the attendance of their Members to delay enforcement of subpoenas or other judicial process while Congress is in session." Grabow, *Congressional Investigations: Law and Practice* § 7.4, at p. 213 (1988) See also Deschler's *Precedents of the U.S. House of Representatives*, ch. 7, § 18, at pp. 170-72.

<sup>46</sup> Art. I, § 5, cl. 2.

<sup>46</sup> See *Judicial Subpoenas and the Constitution*, *supra* note 33, at 572, 579.

<sup>47</sup> The analysis here is focussed on the speech or debate clause as a basis for assertion of privilege in regard to the papers of the House and Senate. However, in some circumstances, the clause might support a claim of privilege in regard to papers of a legislative branch agency. See *Chapman v. Space Qualified Systems Corp.*, 647 F. Supp. 551 (N.D.Fla. 1986)(conduct of GAO investigator held immune from discovery under speech or debate clause).

<sup>48</sup> *Powell v. McCormack*, 395 U.S. 486, 502 (1969).

<sup>49</sup> See *Doe v. McMillan*, 412 U.S. 306, 317 (1973); *Gravel v. United States*, 408 U.S. 606, 624 (1972).

<sup>50</sup> *Kilbourn v. Thompson*, 103 U.S. 168, 204 (1881).

<sup>51</sup> See, e.g., *United States v. Ehrlichman*, 389 F. Supp. 95, 97-98 (D.D.C. 1974), *aff'd sub nom.*, *United States v. Liddy*, 542 F.2d 76 (1976). But cf. *In re Grand Jury Investigation*, 587 F.2d 589, 596 (3d Cir. 1978)(speech or debate immunity may be invoked in response to subpoena but clause was not intended

that the clause protects a Member only for the performance of a "legislative act," a term defined in that case to include "speech or debate in either House" and "other matters...[that are] an integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House."<sup>62</sup>

As interpreted by the Court, the clause does *not* protect Congress when it is performing its role of informing the public concerning congressional activities, even if the material is merely a repetition or republication of that which has previously appeared in an official publication. Thus, the clause does not protect congressional communications directed to the press or to constituents. Furthermore, the clause does not apply to congressional contacts with the executive concerning constituent casework or to telephone calls to influence the executive branch concerning the administration of the law.<sup>63</sup> (However, it might be noted that other defenses may be asserted in some cases not protected by the clause,<sup>64</sup> and that both the courts and Members of Congress have voiced

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to protect confidentiality of legislative documents).

<sup>62</sup> 408 U.S. at 625.

<sup>63</sup> *Gravel*, 408 U.S. at 625-26; *Doe v. McMillan*, 412 U.S. at 315-16, 317; *Hutchinson v. Proxmire*, 443 U.S. 111 (1979); *United States v. Johnson*, 383 U.S. 169 (1966). Several Justices have criticized the view that the speech or debate clause does not protect Members for their actions in informing the public about congressional activities. See, e.g., *Doe v. McMillan*, 412 U.S. at 328 (Douglas, J., concurring); *id.* at 338-42 (Rehnquist, J., concurring in part and dissenting in part). In a recent lower court ruling on a motion to compel production of documents sought from a Senator's office in pre-trial discovery proceedings, it was held that the speech or debate clause protects internal congressional communications (between Members, or between Members and their aides) even if the communications relate to activities which themselves are not protected by the speech or debate clause. *United Transportation Union v. Springfield Terminal Ry.*, 132 F.R.D. 4, 6 (D.Me. 1990).

<sup>64</sup> In a two-to-one decision, the U.S. Court of Appeals for the District of Columbia Circuit held that, in a suit based on the performance of his official but non-legislative functions, a Member could not rely on the judicially-developed defense of official immunity. *Chastain v. Sundquist*, 833 F.2d 311 (D.C.Cir. 1987), *cert. denied*, 487 U.S. 1240 (1988). *But see Walker v. Jones*, 733 F.2d 923, 932-33 (D.C.Cir.), *cert. denied*, 469 U.S. 1036 (1984) (apparently assuming that qualified immunity is available to Members, but finding such immunity inapplicable in that case); *Adams v. American Bar Association*, 400 F. Supp. 219, 226 (E.D.Pa. 1975). See also Grabow, *supra* note 37, at § 7.2[c], p. 199 n.30 (citing *Walker* and other cases in support of application of qualified immunity doctrine to Members).

special concern about the possible legal liability of Members resulting from their communications with constituents.<sup>66</sup>) Where a Member or aide calls the executive branch seeking information, the call may be protected by speech or

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In light of the procedural posture of the litigation in the recent decision in *Williams v. Brooks*, 945 F.2d 1322, 1325-26 n.3 (5th Cir. 1991), *petition for cert. filed*, 60 U.S.L.W. 3656 (1992), the court of appeals expressed no opinion on whether a statutory enactment, the Federal Employees Liability Reform and Tort Compensation Act of 1988 (FELRA), Pub. L. No. 100-694, might provide more expansive immunity than the Constitution does for certain claims against Members arising from their allegedly negligent or wrongful acts or omissions within the scope of their office. Apart from speech or debate clause immunity, official immunity, and a statutory grant of immunity, depending on the circumstances of the case, a Member who is sued for libel may have other defenses available. These would include the constitutionally-based privilege to comment on matters of public concern, the common law qualified defense for "communications from one public officer to another, in an effort to discharge an official duty" (*Chastain*, 833 F.2d at 327, 328), and the defense of truth (Prosser and Keeton, *The Law of Torts* § 115, at p. 830 (5th ed. 1984)). There may also possibly be a qualified privilege for "the circulation to constituents of copies of speeches made in Congress." *Hutchinson*, 443 U.S. at 128-29 n.13.

<sup>66</sup> In 1797, a grand jury considered charging Samuel Cabel, a Member of the House, with criminal defamation for statements, contained in newsletters to his constituents, that were critical of the President's handling of foreign affairs. Thomas Jefferson and James Madison, commenting on the incident, asserted that judicial interference in communications between an elected representative and his constituents would "put the legislative department under the feet of the judiciary" and leave Members with merely "the shadow" of the representative function. 8 *The Works of Thomas Jefferson* 322 (1904). See also *Common Cause v. Bolger*, 574 F. Supp. 672, 673, 677 (D.D.C. 1982)(three-judge court), *aff'd mem.*, 461 U.S. 911 (1983)(in challenge to franking privilege, congressional defendants and congressional *amicus curiae* argued that communications between Members and constituents are constitutionally protected; court recognized that Members of Congress have a "constitutional duty to communicate with and inform their constituents on public matters"); *Hutchinson*, 443 U.S. at 128-29 n.13 (suggesting possibility of qualified privilege for circulation to constituents of reprints of speeches made in Congress); *United States v. Helstoski*, 442 U.S. 477, 481 (1979)(Member, subsequently indicted for taking bribes in return for the introduction of private bills, contended that questions before grand jury as to his correspondence with constituents violated his right of privacy and that of constituents); *Communications with Constituents: The Senator's Duty to Inform the People, Report of the Ad Hoc Committee on Legislative Immunity*, S. Doc. No. 95-33, 95th Cong., 1st Sess. (1977). Cf. *Gravel*, 408 U.S. at 627.



debate immunity<sup>56</sup> in the same way that the clause protects other exercises of Congress' investigatory power, such as the issuance of a subpoena.<sup>57</sup>

The Supreme Court has declined to rule on the question of whether the protection of the clause can be waived either by a Member himself<sup>58</sup> or by Congress, pursuant to a statutory enactment, for individual Members.<sup>59</sup> However, in light of the fact that the clause was intended "to preserve the constitutional structure of separate, coequal, and independent branches of government,"<sup>60</sup> the Court has intimated doubts as to the efficacy of such a waiver (at least in the context of a criminal prosecution of a Member) and, in any event, has stated that a waiver either by a Member or by Congress for individual Members would have to be "explicit and unequivocal."<sup>61</sup> The argument in favor of waiver may be stronger in circumstances where interests of individual Members would not be implicated.

### CASES INVOLVING DEMANDS OR REQUESTS FOR DISCLOSURE OF CONGRESSIONAL PAPERS

The courts have on a number of occasions recognized and upheld Congress' privilege over its papers,<sup>62</sup> but in a few cases it has been held that the privilege

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<sup>56</sup> *Hutchinson*, 443 U.S. at 121 n.10. See also *id.* at 132-33 (distinguishing between Congress informing itself, and congressional efforts to inform the public). Similarly, it might be contended that the clause would protect from compelled disclosure communications from the press or constituents to Members where such communications inform Congress of matters that may require legislative action. Congress receives information from these types of communications just as it does by exercises of its investigatory power. See *In re Grand Jury Investigation*, 587 F.2d 589, 595 (3d Cir. 1978).

<sup>57</sup> *Eastland v. United States Servicemen's Fund*, 421 U.S. 491 (1975).

<sup>58</sup> *Helstoski*, 442 U.S. at 490.

<sup>59</sup> The Court has on three occasions reserved the question of whether the speech or debate clause would allow a prosecution of a Member for a legislative act pursuant to "a narrowly drawn statute passed by Congress in the exercise of its legislative power to regulate the conduct of its members." *Helstoski*, 442 U.S. at 492, quoting *Johnson*, 338 U.S. at 185. See also *United States v. Brewster*, 408 U.S. 501, 529 n.18 (1972).

<sup>60</sup> *Helstoski*, 442 U.S. at 491.

<sup>61</sup> *Helstoski*, 442 U.S. at 491, 493.

<sup>62</sup> See, e.g., *Minpeco, S.A. v. Conticommodity Services, Inc.*, 844 F.2d 856, 862-63 (D.C.Cir. 1988)(citing speech or debate immunity and comity among the branches); *United States v. Ehrlichman*, 389 F. Supp. 95 (D.D.C. 1974)(disclosure under Jencks Act inapplicable to congressional papers), *aff'd on*

did not apply where the papers were not clothed with constitutional protection.<sup>63</sup> Although judicial subpoenas have in some cases been issued for

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*other grounds sub nom. United States v. Liddy*, 542 F.2d 76, 83 (D.C.Cir. 1976); *United States v. Calley*, 46 C.M.R. 1131 (A.C.M.R.), *aff'd on other grounds*, 48 C.M.R. 19 (C.M.R. 1973)(same); *Trimble v. Johnston*, 173 F. Supp. 651 (D.D.C. 1959)(newspaper correspondent held to lack constitutional or statutory right to inspect Senate payroll records). See also *Nixon v. Sirica*, 487 F.2d 700, 715 n.70, 738-40, 772-73 (D.C.Cir. 1973).

Judicial recognition of Congress' prerogatives with regard to its papers is also evidenced in a series of cases involving FOIA requests made to agencies for documents that, although in the possession of the agencies, were obtained from Congress in the exchange of papers incident to the congressional oversight process. The courts have attempted to draw a line between agency records, subject to disclosure under FOIA, and congressional documents, which are outside the scope of the act. "Whether a congressionally generated document has become an agency record...depends on whether under all the facts of the case the document has passed from the control of Congress and become property subject to the free disposition of the agency with which the document resides." *Goland v. CIA*, 607 F.2d 339, 347 (D.C.Cir. 1978). "Two factors are considered dispositive of Congress' continuing intent to control a document: (1) the circumstances attending the document's creation, and (2) the conditions under which it was transferred to the agency." *Paisley v. CIA*, 712 F.2d 686, 692 (D.C.Cir. 1983), *other portions of decision vacated*, 724 F.2d 201 (D.C.Cir. 1984)(*per curiam*). "In the absence of any manifest indication that Congress intended to exert control over documents in an agency's possession, the court will conclude that such documents are not congressional records." *Paisley*, 712 F.2d at 692-93. See also *Holy Spirit Ass'n for the Unification of World Christianity v. CIA*, 636 F.2d 838, 841 (D.C.Cir. 1980)(*dicta*), *other portions of decision vacated and remanded as moot*, 455 U.S. 997 (1982); *Iglesias v. CIA*, 525 F. Supp. 547, 565 (D.D.C. 1981).

<sup>63</sup> See, e.g., the conflicting lower court rulings in protracted litigation involving a challenge to use of the franking privilege. *Compare Common Cause v. Bailer*, Civ. No. 1887-73 (D.D.C., Memorandum and Order of July 30, 1975), *reprinted in Report of the Joint Committee on Congressional Operations Identifying Court Proceedings of Vital Interest to Congress*, 94th Cong., 2d Sess. 205 (Comm. Print, Apr. 1976)[hereinafter, Apr. 1976 *Court Proceedings of Vital Interest*](rejecting speech or debate clause objection to discovery) *with Common Cause v. Bailer*, Order of Mar. 1, 1976, *reprinted in Apr. 1976 Court Proceedings of Vital Interest*, at 209 (recognizing existence of privilege for Senate documents but reserving question of whether documents at issue were senatorial and therefore privileged). The discovery rulings in the case are analyzed in *Judicial Subpoenas and the Constitution*, *supra* note 33, at 558-60 n.158 and accompanying text. In the subsequent decision on the merits in the litigation, the court noted that discovery by both sides in the case had been "thorough and complete." *Common Cause v. Bolger*, 574 F. Supp. 672, 673-74 (D.D.C. 1982)(three-judge court), *aff'd mem.*, 461 U.S. 911 (1983). (continued)



congressional papers, the courts have generally not sought to enforce the subpoenas in instances where the papers have not been produced.<sup>64</sup> However, where Congress has failed to produce papers requested by a defendant in a criminal case, some courts have taken the position that such failure prejudiced the defendant and that, under the Jencks Act,<sup>65</sup> the prosecution should be restricted in evidence that it can offer.<sup>66</sup> And in one anomalous decision, it was

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See also *In re Grand Jury Investigation*, 587 F.2d 589 (3d Cir. 1978), in which the court rejected a Member's speech or debate clause challenge to a grand jury subpoena directed to the Clerk of the House for the Member's telephone toll records, but ordered a hearing to determine which portions of the records related to privileged legislative actions. Although the Clerk did not resist the subpoena, he contended that the district court had not sufficiently complied with the procedural provisions of the House resolution that at the time governed compliance with subpoenas. In a subsequent related civil action under the False Claims Act, in which similar telephone records were subpoenaed, the district court rejected the argument of the Clerk of the House that the political question doctrine and separation of powers principles barred a court from determining which telephone calls billed to a Member related to "official" business. *United States v. Eilberg*, 507 F. Supp. 267 (E.D.Pa. 1980)(*Eilberg I*). See also *United States v. Eilberg*, 553 F. Supp. 1 (D.D.C. 1981)(*Eilberg II*)(holding that *Eilberg I* constituted the law of the case for purposes of ruling on motion of Clerk of the House to quash a deposition subpoena).

<sup>64</sup> However, in one intense and widely-publicized inter-branch clash, a federal district court held the Clerk of the House in contempt of court for refusing to deliver documents sought by a judicial subpoena (*Benford v. American Broadcasting Companies*, 565 F. Supp. 139 (D.Md. 1983)) notwithstanding the fact that the Clerk was acting in accordance with a resolution adopted by the House which declined to make the documents available to the court. H. Res. 176, 98th Cong. The court of appeals reversed on other grounds, *sub nom. Guthrie v. American Broadcasting Companies*, 733 F.2d 634 (4th Cir. 1984). The incident is reviewed in Fisher, *Congress and the Fourth Amendment*, 21 Ga. L. Rev. 107, 164-65 (1986). It appears that another inter-branch dispute may be brewing over a broad subpoena for records of the House Bank that was issued by special counsel Malcolm Wilkey who was appointed by the Attorney General to investigate overdrafts at the bank. See *Washington Post*, Apr. 25, 1992, at p. A1, and Apr. 28, 1992, at p. A1.

<sup>65</sup> 18 U.S.C. § 3500.

<sup>66</sup> *United States v. Mitchell*, Army GCM (6th Jud. Cir., Oct. 19, 1970), reprinted at 116 Cong. Rec. 37654 (1970). See also *Calley v. Callaway*, 382 F. Supp. 650 (M.D.Ga. 1974)(ordering release of defendant in *habeas corpus* proceeding on ground that failure to disclose congressional documents rendered conviction unconstitutional), *rev'd on other grounds*, 519 F.2d 184, 225-26 (5th Cir. 1975), *cert. denied*, 425 U.S. 911 (1976); *Christoffel v. United States*, 200 F.2d 734 (D.C.Cir. 1952), *vacated and remanded on other grounds*, 345 U.S. 947 (1953). Other cases which have involved requests for congressional (continued)

held that "Congress is subject to the common law rule which guarantees the public a right to inspect and copy public records."<sup>67</sup>

### APPLICATION OF FOIA TO CONGRESS

A review of the text of the FOIA and judicial interpretations of it suggests a number of other questions that might be raised if the act were to be extended to Congress.<sup>68</sup>

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testimony under the Jencks Act have been disposed of on a variety of grounds, without deciding whether the act applies to such testimony. See *Harney v. United States*, 306 F.2d 523 (1st Cir. 1962); *United States v. Lev*, 258 F.2d 9 (2d Cir. 1958); *United States v. Tane*, 29 F.R.D. 131 (E.D.N.Y. 1962). For an overview of issues relating to the application of the Jencks Act to congressional testimony, see *A Defendant's Right to Inspect Pretrial Congressional Testimony of Government Witnesses*, 80 Yale L.J. 1388 (1971).

<sup>67</sup> *Schwartz v. Department of Justice*, 435 F. Supp. 1203, 1204 (D.D.C. 1977), *aff'd mem.*, 595 F.2d 888 (D.C.Cir. 1979). The court observed, 435 F. Supp. at 1204:

It is true that Congress has exempted itself from the requirements of the Freedom of Information Act [citation omitted]. That Act, however, is not coextensive with the common law rule under discussion. It applies to *all* matters in Government files; the common law rule applies only to "public records." Moreover, we can find no inconsistency or conflict between the Freedom of Information Act and the common law rule. Even if there were an inconsistency or conflict, the act would have to be construed narrowly, favoring application of the common law, because the Freedom of Information Act is in derogation of the common law. [emphasis in the original]

We are unaware of any reported decision of any federal court which has followed *Schwartz*. That ruling seems to contemplate disclosure of congressional papers without the necessity of the approval of either House. Such disclosure would be inconsistent with the rules and the tradition of both Houses. To the extent that there is a constitutional basis for the privilege of the House and Senate over their papers, such a privilege would seem to prevail over a claim made pursuant to the common law right. Also, it can be argued that the Freedom of Information Act codifies or supersedes the common law rule, and that since Congress is exempted from the FOIA, it is in effect exempted from the common law rule. Cf. *Government Information and the Rights of Citizens*, 73 Mich. L. Rev. 971, 1164 (1975).

<sup>68</sup> Various measures have been offered that would extend FOIA to Congress, including, *inter alia*, the Openness in Congress Act of 1992, which is Title V of the Accountability in Government Act of 1992 which (continued)

## FOIA EXEMPTIONS

What congressional papers and documents might be exempt from disclosure under the act's nine exemptions?<sup>69</sup> Exemptions that might be of particular relevance to a FOIA provision binding on Congress include those for "internal personnel rules and practices,"<sup>70</sup> "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy,"<sup>71</sup> and certain inter- and intra-agency memoranda and correspondence.<sup>72</sup> The exemption for inter- and intra-agency memoranda may be especially important. It incorporates the government's common law privilege from discovery in litigation<sup>73</sup> and has been held to encompass, *inter alia*, the "executive privilege" which protects advice and opinions rendered as part of the

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President Bush submitted to Congress on April 9, 1992. Although our analysis does not focus on the particulars of the various proposals, several noteworthy features of the President's bill might be mentioned. The President's plan would extend FOIA to the House and Senate and committees of both bodies, and to "any agency, instrumentality or other establishment in the legislative branch...(including the General Accounting Office)...." However, the personal offices of Members and the leadership offices of either House would not be covered. Furthermore, under the legislation backed by the President, certain investigative and enforcement powers that are exercised by the Special Counsel under 5 U.S.C. § 552(a)(4)(F) would be vested in the General Counsel of the General Accounting Office Personnel Appeals Board with regard to legislative branch employees who may have arbitrarily or capriciously withheld documents.

<sup>69</sup> The exemptions are permissive, not mandatory. See, e.g., *Chrysler Corp. v. Brown*, 441 U.S. 281, 293 (1979).

<sup>70</sup> 5 U.S.C. § 552(b)(1).

<sup>71</sup> 5 U.S.C. § 552(b)(6).

<sup>72</sup> 5 U.S.C. § 552(b)(5) ("inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency"). Other exemptions cover classified matter (§ 552(b)(1)); matters specifically exempted from disclosure by statute (§ 552(b)(3)); trade secrets and other confidential commercial or financial information obtained from a private party (§ 552(b)(4)); certain records or information compiled for law enforcement purposes (§ 552(b)(7)); matters relating to reports prepared by or for the use of an agency responsible for the regulation or supervision of financial institutions (§ 552(b)(8)); and geological and geophysical information and data concerning wells (§ 552(b)(9)).

<sup>73</sup> See *Federal Open Market Comm. v. Merrill*, 443 U.S. 340 (1979).



governmental deliberative process,<sup>74</sup> the attorney-client privilege,<sup>75</sup> and the attorney work-product privilege.<sup>76</sup> Certain exemptions might be particularly relevant to disclosure by various administrative entities in Congress<sup>77</sup> or to

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<sup>74</sup> *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 150-54 (1975). The Court has distinguished between "materials reflecting deliberative or policy-making processes on the one hand, and purely factual, investigative matters on the other." *EPA v. Mink*, 410 U.S. 73, 89 (1973). "[T]he privilege applies only to the 'opinion' or 'recommendatory' portion of [a document], not to factual information which is contained in the document." *Coastal States Gas Corp. v. Department of Energy*, 617 F.2d 854, 867 (D.C.Cir. 1980). Although § 552(b)(5) applies to "inter-agency and intra-agency" documents, it has been held that the exemption covers certain documents produced by outside parties at the request of the agency. See, e.g., *Ryan v. Department of Justice*, 617 F.2d 781, 789 (D.C.Cir. 1980)(responses of Senators to agency questionnaire). See also *Dow Jones & Co. v. Department of Justice*, 724 F. Supp. 985, 988 (D.D.C. 1989), *aff'd*, 917 F.2d 571 (D.C.Cir. 1990)(in finding exemption applicable to letter from Justice Department to House Committee on Standards of Official Conduct concerning investigation of Member, court considered exemption as protecting "deliberative process of government generally").

The protection provided by § 552(b)(5) has been compared with both executive privilege and speech or debate clause immunity. *Nixon v. Sirica*, 487 F.2d 700, 717 (D.C.Cir. 1973)(*per curiam*).

<sup>75</sup> *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975). Under the FOIA, the privilege protects communications by an agency with its attorneys where such communications are needed to obtain legal advice and disclosure of the communications is made only to persons with authority to speak or act for the agency. See *Coastal States Gas Corp.*, 617 F.2d at 862-64.

<sup>76</sup> See *Federal Open Market Comm. v. Merrill*, 443 U.S. 340 (1979); *NLRB v. Sears, Roebuck & Co.* The privilege, which protects certain documents prepared by an attorney in anticipation of litigation, was recognized by the Supreme Court in *Hickman v. Taylor*, 329 U.S. 495 (1947).

<sup>77</sup> For example, the exemption for records or information compiled for law enforcement purposes (5 U.S.C. § 552(b)(7)) would be especially important in terms of application of an FOIA provision to the Capitol Police.

disclosure by legislative branch agencies,<sup>78</sup> if the FOIA were to cover them as well as the House and Senate.

### ADMINISTRATIVE PROBLEMS

Under the FOIA, an agency FOIA office or officer has ten working days following the receipt of a request for documents to determine whether to comply, and must notify the requester of the determination and of the right to appeal an adverse determination to the head of the agency. The agency must make a determination with respect to any appeal within twenty working days following its receipt.<sup>79</sup> "Any reasonably segregable portion of a record" must be released after an agency deletes exempt portions.<sup>80</sup> If the FOIA were extended to Congress, would there be one FOIA officer for Congress, or perhaps one for each House, or one for each committee, subcommittee, Member, and administrative entity? If there were only one FOIA officer or only one for each House, would that officer have authority to determine for each committee, Member, etc., whether the documents of that committee or Member would be disclosed? Who would be the "head of the agency" for purposes of FOIA administrative appeals?<sup>81</sup> Would searching for records, and segregating non-exempt portions from exempt portions, impose an undue administrative burden on Congress?

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<sup>78</sup> For example, the exemption for inter-agency memoranda (5 U.S.C. § 552(b)(5)) might be particularly relevant to a FOIA provision binding on the congressional support agencies (CBO, CRS, GAO, and OTA) which communicate regularly with Congress and with each other. A desire to protect the confidentiality of such communications with Congress is reflected in the public disclosure regulations of the Library of Congress (see note 18 and accompanying text, *supra*), which specifically exempt from disclosure materials that are "gathered, prepared, or compiled specifically for the use of the Congress by the Congressional Research Service, the Law Library, or any other subdivision of the Library." 36 C.F.R. § 703.3(a)(7). The Library's regulations also specifically exempt from disclosure certain other types of materials including, *inter alia*, certain documents relating to copyrights. 36 C.F.R. § 703.3(a)(4). Such specific exemptions suggest the possibility of tailoring (either in statutory language or in regulations) an FOIA provision applied to Congress or legislative branch agencies in light of the particular functions of each entity to which the act will apply.

<sup>79</sup> 5 U.S.C. § 552(a)(6)(A). The specified time limits may be extended in unusual circumstances. § 552(a)(6)(B).

<sup>80</sup> 5 U.S.C. § 552(b).

<sup>81</sup> It might be possible for existing personnel to assume the functions of an FOIA officer. The disclosure regulations of the Library of Congress provide that requests for records are to be directed to the Chief of the Central Services Division and that administrative appeals are to be determined by the General Counsel. 36 C.F.R. § 703.4.



## JUDICIAL REVIEW

If the requester files a judicial appeal, the court can enjoin the agency from withholding the records and order the production of any agency records improperly withheld. The court is to rule on the matter *de novo*, and may examine the disputed documents *in camera* to determine whether they may be withheld under any of the FOIA exemptions. The agency has the burden of sustaining its action in withholding any documents.<sup>82</sup> An agency employee who fails to comply with a court order may be punished for contempt of court.<sup>83</sup>

Does the speech or debate clause prohibit judicial review of congressional claims of privilege? In *United States v. Nixon*, the Supreme Court rejected the President's contention that the separation of powers doctrine barred judicial review of a claim of executive privilege,<sup>84</sup> and in support of judicial authority in such a case the Court cited several speech or debate clause cases in which it had interpreted the immunity of Members.<sup>85</sup> The Court in *Nixon* also approved of *in camera* inspection of material as to which a claim of privilege had been made,<sup>86</sup> and upheld the authority of the district court to segregate privileged material (to be returned to the President) from material that would be admissible in the judicial proceedings for which they were subpoenaed.<sup>87</sup> Segregation of protected from non-protected material has also been upheld in

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<sup>82</sup> 5 U.S.C. § 552(a)(4)(B).

<sup>83</sup> 5 U.S.C. § 552(a)(4)(G).

<sup>84</sup> 418 U.S. 683, 703-05 (1974).

<sup>85</sup> 418 U.S. at 704, citing *Doe v. McMillan*, 412 U.S. 306 (1973); *Gravel v. United States*, 408 U.S. 606 (1972); *United States v. Brewster*, 408 U.S. 501 (1972); and *United States v. Johnson*, 383 U.S. 169 (1966). See also Larkin, *Federal Testimonial Privileges* § 6.02 at p. 6-16 (1991)(citing *United States v. Nixon* in support of view that congressional privilege for papers is qualified, not absolute). The cases cited in *United States v. Nixon* all involved assertions of speech or debate immunity by an individual Member or Members. In a case decided by the U.S. Court of Appeals for the District of Columbia Circuit the year before the Supreme Court's ruling in *United States v. Nixon*, it was questioned both in the *per curiam* opinion for the *en banc* court and in Judge Wilkey's dissent whether speech or debate cases such as those cited above would be controlling if an issue arose as to judicial authority to review a claim of privilege made by the full House or Senate. *Nixon v. Sirica*, 487 F.2d 700, 715 n.70, 773 n.45 (D.C.Cir. 1973). But see *Gravel*, 408 U.S. at 624 n.15 (speech or debate immunity cannot be unilaterally "established by the Legislative Branch")(emphasis added).

<sup>86</sup> 418 U.S. at 713-14. See also *EPA v. Mink*, 410 U.S. at 93.

<sup>87</sup> 418 U.S. at 714-16.

the speech or debate context.<sup>88</sup> Apart from other questions related to judicial review, it is uncertain whether the speech or debate clause and/or the separation of powers doctrine permit the courts to grant injunctive relief against Congress.<sup>89</sup>

## POSSIBLE IMPACT ON CONGRESSIONAL ACCESS TO INFORMATION

Both the private sector and the executive sometimes object to congressional requests or subpoenas for information on the ground that Congress or the committee involved may decide to make such information public, or that such information may be leaked. However, reasoning that disclosure to a congressional committee is not the same as public disclosure,<sup>90</sup> the courts have held that Congress may have access to trade secrets and other confidential business information<sup>91</sup> but rulings have indicated that the courts might bar an

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<sup>88</sup> See, e.g., *Helstoski*, 442 U.S. at 488 n.7 (references to legislative acts may be excised and the remainder of the evidence admitted); *In re Grand Jury Investigation*, 587 F.2d at 595-96 (rejecting argument that entire telephone bill should be suppressed because some calls on bill reflected legislative acts). See also *Gravel*, 408 U.S. at 628 (approving protective order allowing grand jury questioning of Senator's aide provided legislative acts were not implicated in the inquiry). But see *United Transportation Union v. Springfield Terminal Ry.*, 132 F.R.D. 4, 6 (D.Me. 1990) ("the purpose of the clause would be ill-served if legislators and their staffs had to search through their internal correspondence, memoranda, notes and collective memories to determine whether a given document had a legislative, non-legislative, or mixed purpose"); cf. *United States v. Eilberg*, 507 F. Supp. 267, 275-76 (E.D.Pa. 1980) (U.S. Attorney accepted argument of Clerk of House that courts could not "sift through" Member's telephone records if House norm as to "official" nature of telephone calls were rooted in committee rule adopted pursuant to constitutional rulemaking authority).

Allowing such segregation of protected from non-protected matter may impinge upon the interest in confidentiality served by the speech or debate clause. See generally *Evidentiary Implications of the Speech or Debate Clause*, 88 Yale L.J. 1280, 1286-87 n.30 (1979). But some decisions have disputed the view that the clause was intended to ensure confidentiality for legislators. See, e.g., *In re Grand Jury Investigation*, 587 F.2d at 597.

<sup>89</sup> Compare *Doe v. McMillan*, 412 U.S. at 330 (Douglas, J., concurring) with *id.* at 343-45 (Rehnquist, J., joined by Burger, C.J., and Blackmun, J., concurring in part and dissenting in part).

<sup>90</sup> *Ashland Oil v. F.T.C.*, 409 F. Supp. 297, 308 (D.D.C.), *aff'd*, 548 F.2d 977 (D.C.Cir. 1976).

<sup>91</sup> *Ashland Oil; Exxon Corp. v. F.T.C.*, 589 F.2d 582 (D.C.Cir. 1978), *cert. denied*, 441 U.S. 943 (1979). See also *F.T.C. v. Owens-Corning Fiberglas Corp.*, 626 F.2d 966 (D.C.Cir. 1980).

agency from revealing certain confidential information to a committee if it were evident that the committee intended to publicly disclose it.<sup>92</sup> If the FOIA were applied to Congress, would agencies and private parties become more reluctant to respond to congressional requests and demands for information that could later be the subject of a FOIA request to Congress?

## INVOLVEMENT IN LITIGATION

Would application of the FOIA to Congress result in a substantial amount of litigation? Members and staff might challenge the constitutionality of the FOIA as applied to Congress. Citizens who file FOIA requests which are denied might seek judicial review. Parties that submit information to committees in response to requests or subpoenas might file "reverse FOIA" suits against Congress, seeking to block disclosure of that information under the act.<sup>93</sup> Parties that are named in documents disclosed pursuant to the act might allege that they have been defamed or that their right to privacy has been infringed.<sup>94</sup>

## ANALYSIS

Requests and demands for access to congressional papers and documents, although often complied with by both the House and Senate, implicate the privileges of both bodies. The privilege asserted with regard to congressional papers is rooted in the Constitution, principally the speech or debate clause. Proposals to extend the FOIA to Congress would need to be assessed in light of the historical assertion by the House and Senate of privilege as to their papers and in light of the constitutional foundation for such privilege.

The courts have recognized and upheld Congress' privilege over its papers, but in a few cases it has been held that the privilege did not apply where the papers were not constitutionally protected. The speech or debate clause would shield from compulsory disclosure only those papers that relate to a "legislative act" as that term was used in the leading case of *Gravel v. United States*. Questions concerning the application of the speech or debate clause or other constitutional provisions to safeguard congressional papers and documents may require a document-by-document determination. It is uncertain whether the immunity provided by the speech or debate clause could be waived by statute.

Although certain congressional papers, such as communications with constituents, may not be protected by speech or debate clause immunity, nevertheless there may be policy considerations for maintaining the

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<sup>92</sup> See *Ashland Oil*, 548 F.2d at 979; *Exxon Corp.*, 589 F.2d at 589; *Owens-Corning Fiberglas Corp.*, 626 F.2d at 970 n.7.

<sup>93</sup> See *Chrysler Corp. v. Brown*, 441 U.S. 281 (1979).

<sup>94</sup> Cf. *Doe v. McMillan*, 412 U.S. 306 (1973) (action for invasion of privacy based on disclosures in committee report). In any such suit it might be possible to raise various defenses, including some of those discussed in note 54, *supra*.



confidentiality of such papers. For example, preserving the confidentiality of communications from and to constituents may encourage citizens to express their views to their elected representatives.

In addition to the fact that some congressional papers and documents are constitutionally protected, several other points might be raised concerning the possible extension of the FOIA to Congress. (1) A FOIA officer for Congress, or one for the House and one for the Senate, or one for each Member and committee, would be required to search for records, segregate non-exempt portions of records from exempt portions, and comply with related FOIA provisions. (2) One or more of the FOIA's nine exemptions might be invoked in response to a request for documents. The exemption for "inter-agency or intra-agency memorandums," which has been compared with both executive privilege and speech or debate immunity, might be especially important. As applied to Congress, it could be viewed as statutory recognition of authority to withhold documents that fall within the parameters of constitutional speech or debate immunity, and might provide a statutory basis for the withholding of a significant portion of congressional papers. (3) Separation of powers and speech or debate clause objections might be raised if the FOIA provisions concerning judicial review were applied to Congress. (4) Application of the FOIA to Congress could result in considerable litigation and might have an impact on congressional access to information from private parties and the executive branch.

In considering the matter of public access to congressional information, Congress would seem to have several major options. (1) Maintain the *status quo*, publish certain information (such as that in the report of the Clerk of the House) at regular intervals, publish other information (such as that concerning overdrafts at the House Bank) on an *ad hoc* basis, and respond to judicial subpoenas in accordance with House and Senate rules and precedents. (2) Apply the FOIA to Congress in a comprehensive fashion, perhaps explicitly waiving in the statute constitutional immunity for congressional papers. (3) Apply a FOIA provision to Congress that is drafted to recognize the constitutional protections that may apply to certain congressional papers and that would limit disclosure to papers that are not protected. Such a provision might include a procedure, similar to that under House Rule L governing response to judicial subpoenas for House documents, that would allow for assertion of constitutional objections to requests for House documents. (4) Instead of applying the FOIA to Congress, increase public access to congressional information by publishing more information in House and Senate documents, reports, etc., and/or by making more information available for public inspection.

**Congressional Staff Survey**

**Sections on**  
**House Office of Fair Employment**  
**Practices (OFEP)**  
**and**  
**Office of Senate Fair Employment**  
**Practices (OSFEP)**

**Prepared by: Congressional Management Foundation**  
**for the**  
**Joint Committee on the Organization of Congress**



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## **Purpose, Methodology, and Reliability of the Survey**

### **Why were congressional staff surveyed?**

The views of congressional staff were sought to assist the Joint Committee on the Organization of Congress in fulfilling its mandate "to make a full and complete study of the organization and operations of Congress." Management experts recognize the vital contributions employees can make in improving the performance of an organization. In considering changes in the organization and operation of Congress, it is important that Members of Congress have access to the concerns and suggestions of staff.

### **Who was surveyed? What were they asked about?**

A general survey was sent to 3,500 randomly selected congressional staff who work in Representatives' and Senators' personal offices, committees, and subcommittees. This survey solicited staff views on three topics:

- congressional reform proposals
- staff satisfaction and office management issues
- the House and Senate Offices of Fair Employment Practices

A second survey was mailed to every Administrative Assistant (AA) and full committee majority and minority Staff Director who was not included in the first survey. There were 477 such staff. Questions on the second survey, however, were simply a subset of questions from the general survey, covering only the congressional reform proposals. Consequently, all AAs and full committee Staff Directors had the opportunity to offer their views on reform issues, and a select sample had the opportunity to respond to questions about the Fair Employment Practices offices, staff satisfaction, and office management issues.

### **How many staff completed questionnaires?**

The data reported here are based on 1,422 responses to the general survey, a response rate of 40.6 percent, and 252 responses to the AA/Staff Director survey, a response rate of 52.8 percent. These response rates are excellent for mail surveys, according to the standards of the polling industry.

## How representative of all congressional staff are those who completed the questionnaire?

### The General Survey

On four major criteria, the respondents to the first survey are highly representative of the population from which they were selected. As the table on page 23 of this report illustrates, respondents almost perfectly mirror the actual distribution of staff by chamber of Congress, by party affiliation, by office (personal vs. committee), and by location (Washington, D.C. vs. district and state offices).

To further assure the validity of the response, we separated respondents by chamber of Congress and re-analyzed them by the remaining three criteria: partisan affiliation, office, and location. For both the House and Senate, respondents again were almost a perfect match on all criteria.

The responses accurately reflect the actual composition of Congress on each of the above measures. These patterns, in conjunction with the high response rate, strongly support the conclusion that the data in this report are reliable.

### The AA/Staff Director Responses to Both Surveys

On three major criteria, AA and Staff Director respondents are highly representative of their overall numbers. By partisan affiliation and by office, the respondents almost perfectly match the actual figures, as the table on page 24 of this report illustrates. By chamber of Congress, responses are slightly over-representative of the House and under-representative of the Senate.

As with the general survey, the responses accurately reflect the actual composition of AAs and Staff Directors on each of the above measures. These patterns, in conjunction with the high response rate, strongly support the conclusion that the data in this report are reliable.

**Summary of Key Findings:  
House Office of Fair Employment Practices (OFEP)**

House Staffers' Knowledge of OFEP:

- \* Over 80% of House staff were aware of OFEP before this questionnaire, but only 22% had a good understanding of its mission and 14% had a good understanding of OFEP's services.
- \* Staff in Representatives' district offices are less aware of OFEP's availability than those in Capitol Hill offices. Meanwhile, staff earning less than \$30,000 per year had less understanding of OFEP's mission and services than their counterparts earning more than \$30,000 per year.
- \* News articles were by far the most common way in which House staff learned about OFEP. The next most common ways were through OFEP materials and written information from the House. 2.4% of House staff learned of OFEP by directly contacting the office.

House Staffers' Views on Contacting OFEP:

- \* Roughly 30% of House staff have no reservations at all about contacting OFEP to initiate an inquiry or file a complaint, but 70% have at least some reservation about doing so.
- \* Just over 40% of House staff would be "unlikely" to make an OFEP inquiry or complaint due to fears of retaliation from their employers. Fears of employer retaliation deter female staff from contacting OFEP more than they deter male staff. Meanwhile, fears of retaliation do not deter non-white staff from contacting OFEP as much as they deter white staff.
- \* About one-half of House staff would be "unlikely" to file an inquiry or complaint with OFEP because they believe that doing so would jeopardize their prospects of finding another congressional job.
- \* About 40% of House staff would be "unlikely" to make inquiries or file complaints with OFEP due to concerns over OFEP's confidentiality and notification procedures.
- \* For approximately one-third of House staff, concerns over receiving fair treatment in an employment dispute would make filing an inquiry or complaint with OFEP "unlikely." Republican staff were more concerned about receiving fair treatment than Democratic staff.

**Summary of Key Findings:  
Office of Senate Fair Employment Practices (OSFEP)**

**Senate Staffers' Knowledge of OSFEP:**

- \* 72% of Senate staff were aware of OSFEP before this questionnaire, but only 25% had a good understanding of its mission and 20% had a good understanding of OSFEP's services. Among non-white staff, these figures are lower: 49% were aware of OSFEP, 17% had a good understanding of its mission, and 14% had a good understanding of its services.
- \* Staff in Senators' state offices are less aware of OSFEP's mission and services than those in Capitol Hill offices.
- \* Directly receiving OSFEP materials was the most common way in which Senate staff learned about OSFEP. The next most common ways were through the managers in their offices and news articles. 6% learned of OSFEP by directly contacting the office.

**Senate Staffers' Views on Contacting OSFEP:**

- \* More than 30% of Senate staff have no reservations at all about contacting OSFEP to initiate an inquiry or file a complaint, but almost 70% have at least some reservation about doing so.
- \* Roughly one-third of Senate staff would be "unlikely" to make an OSFEP inquiry or complaint due to fears of retaliation from their employers. Fears of employer retaliation deter female staff from contacting OSFEP slightly more than they deter male staff. Meanwhile, fears of retaliation do not deter non-white staff from contacting OSFEP as much as they deter white staff.
- \* Over 40% of Senate staff would be "unlikely" to file an inquiry or complaint with OSFEP because they believe that doing so would jeopardize their prospects of finding another congressional job.
- \* About 30% of Senate staff would be "unlikely" to make inquiries or file complaints with OSFEP due to concerns over OSFEP's confidentiality and notification procedures.
- \* For approximately one-quarter of Senate staff, concerns over receiving fair treatment in an employment dispute would make filing an inquiry or complaint with OSFEP "unlikely." Republican staff were slightly more concerned about receiving fair treatment than Democratic staff.



This section of the questionnaire focuses on the Office of Fair Employment Practices in each chamber of Congress. Because each chamber has an independent office, your answers to the following questions should be based only on the office that serves the chamber for which you work.

**H. Before reading this questionnaire, did you know of the availability to you of the House Office of Fair Employment Practices (OFEP)?**

	Yes	No	Total %	(N)
All Respondents	80.9	19.1	100	990
Democratic staff	81.2	18.8	100	626
Republican staff	80.3	19.7	100	346
Female staff	78.0	22.0	100	499
Non-White staff	77.3	22.7	100	132
Washington staff	86.6	13.4	100	707
District staff	66.4	33.6	100	277
Staff earning < \$30,000	68.6	31.4	100	328

Note: The last category "staff earning < \$30,000" contains those staff who reported on the questionnaire that their annual salary is less than \$30,000. Generally, these staff tend to be young, have little Congressional experience, and/or serve in office support functions.

**I: Thinking about OFEP (in the House), describe your understanding of its mission and services. Check one item in each column.**

**A. Mission**

	Good Understanding	Partial/Limited Understanding	No Understanding	Total%	(N)
All Respondents	21.9	61.6	16.5	100	976
Democratic staff	22.0	62.7	15.3	100	615
Republican staff	21.9	59.7	18.4	100	343
Female staff	21.5	59.1	19.4	100	489
Non-White staff	26.0	56.7	17.3	100	127
Washington staff	23.9	64.0	12.2	100	699
District staff	16.6	55.4	28.0	100	271
Staff earning < \$30,000	14.7	61.8	23.5	100	319

**B. Services**

	Good Understanding	Partial/Limited Understanding	No Understanding	Total %	(N)
All Respondents	14.3	64.5	21.1	100	941
Democratic staff	14.0	66.5	19.5	100	591
Republican staff	14.5	61.7	23.8	100	332
Female staff	15.6	61.0	23.4	100	474
Non-White staff	21.6	58.4	20.0	100	125
Washington staff	14.4	68.1	17.5	100	673
District staff	14.1	55.0	30.9	100	262
Staff earning < \$30,000	8.9	63.5	27.6	100	304

**J. Through what sources have you learned about OFEP? Check all that apply.**

	OFEP Materials	Contacting OFEP Yourself	News Articles	Management in your Office	Written Info from House	Word of Mouth
All Respondents	33.7	2.4	47.5	27.0	30.7	20.3
Democratic staff	34.7	2.4	47.2	25.1	29.9	21.5
Republican staff	32.4	2.3	48.0	30.9	31.5	18.5
Female staff	33.9	2.6	38.1	28.3	30.1	19.4
Non-White staff	36.8	1.5	35.3	27.1	33.1	21.1
Washington staff	35.2	3.1	57.9	27.3	33.5	22.6
District staff	30.1	0.7	20.8	26.5	23.7	13.6
Staff earning < \$30,000	27.4	0.9	30.7	24.6	22.8	16.7

Note: Because some respondents learned about OFEP from more than one source, each row of this table totals to more than 100%.

If you thought you had been subjected to a violation of fair employment practices, would any of the following reasons make you:

K. Unlikely to initiate an inquiry with OFEP?

L. Unlikely to file a complaint with OFEP?

K: Unlikely to initiate an inquiry?

1. Concern that your contact with OFEP would not be kept confidential

	Yes	No	Maybe	Total%	(N)
All Respondents	37.4	37.9	24.7	100	916
Democratic staff	36.2	39.3	24.5	100	588
Republican staff	38.9	35.0	26.0	100	311
Female staff	41.5	31.3	27.2	100	463
Non-White staff	35.3	40.3	24.4	100	119
Washington staff	38.0	37.9	24.1	100	660
District staff	35.5	37.8	26.7	100	251
Staff earning < \$30,000	35.0	37.6	27.5	100	306

L: Unlikely to file a complaint?

1. Concern that your contact with OFEP would not be kept confidential

	Yes	No	Maybe	Total %	(N)
All Respondents	41.5	33.4	25.1	100	893
Democratic staff	40.5	34.6	25.0	100	573
Republican staff	43.0	30.8	26.2	100	302
Female staff	45.6	26.5	27.9	100	456
Non-White staff	36.7	38.3	25.0	100	120
Washington staff	42.8	32.0	25.2	100	643
District staff	38.2	37.0	24.8	100	246
Staff earning < \$30,000	39.5	33.4	27.0	100	296

If you thought you had been subjected to a violation of fair employment practices, would any of the following reasons make you:

K: unlikely to initiate an inquiry with OFEP?

L: unlikely to file a complaint with OFEP?

K: Unlikely to initiate an inquiry?

**2. Concern that OFEP would notify your employer without your permission**

	Yes	No	Maybe	Total %	(N)
All Respondents	39.0	38.7	22.3	100	910
Democratic staff	37.0	40.2	22.8	100	587
Republican staff	42.8	35.6	21.6	100	306
Female staff	45.7	29.4	24.9	100	462
Non-White staff	41.3	38.0	20.7	100	121
Washington staff	38.9	38.8	22.3	100	658
District staff	38.9	38.5	22.7	100	247
Staff earning < \$30,000	40.3	39.6	20.1	100	303

L: Unlikely to file a complaint?

**2. Concern that OFEP would notify your employer without your permission**

	Yes	No	Maybe	Total %	(N)
All Respondents	40.8	35.7	23.5	100	894
Democratic staff	39.1	36.8	24.1	100	576
Republican staff	44.0	33.7	22.3	100	300
Female staff	48.5	26.0	25.6	100	454
Non-White staff	40.7	39.8	19.5	100	118
Washington staff	40.9	35.8	23.3	100	643
District staff	40.5	35.6	23.9	100	247
Staff earning < \$30,000	41.6	35.9	22.5	100	298



If you thought you had been subjected to a violation of fair employment practices, would any of the following reasons make you:

K: unlikely to initiate an inquiry with OFEP?

L: unlikely to file a complaint with OFEP?

K: Unlikely to initiate an inquiry?

**3. Concern that you would be subject to retaliation from your employer**

	Yes	No	Maybe	Total %	(N)
All Respondents	42.0	34.3	23.7	100	909
Democratic staff	40.3	33.1	26.6	100	586
Republican staff	45.4	35.9	18.6	100	306
Female staff	45.6	29.9	24.5	100	461
Non-White staff	40.0	31.7	28.3	100	120
Washington staff	44.8	31.9	23.3	100	656
District staff	35.1	40.7	24.2	100	248
Staff earning < \$30,000	40.3	36.6	23.1	100	303

L: Unlikely to file a complaint?

**3. Concern that you would be subject to retaliation from your employer**

	Yes	No	Maybe	Total %	(N)
All Respondents	44.8	30.2	25.0	100	895
Democratic staff	43.5	29.1	27.4	100	577
Republican staff	47.7	31.3	21.0	100	300
Female staff	49.2	25.4	25.4	100	453
Non-White staff	37.5	30.8	31.7	100	120
Washington staff	48.1	27.0	24.8	100	644
District staff	36.8	38.1	25.1	100	247
Staff earning < \$30,000	43.6	31.9	24.5	100	298

If you thought you had been subjected to a violation of fair employment practices, would any of the following reasons make you:

K: unlikely to initiate an inquiry with OFEP?

L: unlikely to file a complaint with OFEP?

K: Unlikely to initiate an inquiry?

4. Concern that your prospects of finding another congressional position would be jeopardized

	Yes	No	Maybe	Total %	(N)
All Respondents	48.1	30.4	21.5	100	907
Democratic staff	48.4	30.9	20.7	100	585
Republican staff	47.9	28.9	23.3	100	305
Female staff	50.9	29.0	20.1	100	458
Non-White staff	50.0	28.8	21.2	100	118
Washington staff	50.2	27.3	22.6	100	656
District staff	42.3	38.6	19.1	100	246
Staff earning < \$30,000	42.6	36.6	20.8	100	303

L: Unlikely to file a complaint?

4. Concern that your prospects of finding another congressional position would be jeopardized

	Yes	No	Maybe	Total %	(N)
All Respondents	52.2	24.8	23.0	100	895
Democratic staff	51.6	25.2	23.3	100	576
Republican staff	54.2	23.3	22.6	100	301
Female staff	54.9	23.5	21.7	100	452
Non-White staff	46.2	25.2	28.6	100	119
Washington staff	55.3	20.2	24.5	100	645
District staff	43.9	36.6	19.5	100	246
Staff earning < \$30,000	48.3	29.9	21.8	100	298

If you thought you had been subjected to a violation of fair employment practices, would any of the following reasons make you:

K: unlikely to initiate an inquiry with OFEP?

L: unlikely to file a complaint with OFEP?

K: Unlikely to initiate an inquiry?

**5. Concern that you would not receive fair treatment in a dispute between you and your employer**

	Yes	No	Maybe	Total %	(N)
All Respondents	33.2	41.0	25.8	100	910
Democratic staff	31.2	41.3	27.5	100	589
Republican staff	37.0	39.7	23.3	100	305
Female staff	38.0	35.4	26.7	100	461
Non-White staff	40.0	30.8	29.2	100	120
Washington staff	35.8	38.3	25.9	100	656
District staff	26.1	48.2	25.7	100	249
Staff earning < \$30,000	31.9	43.1	25.0	100	304

L: Unlikely to file a complaint?

**5. Concern that you would not receive fair treatment in a dispute between you and your employer**

	Yes	No	Maybe	Total %	(N)
All Respondents	34.8	35.8	29.4	100	891
Democratic staff	32.8	35.4	31.8	100	576
Republican staff	38.9	35.6	25.5	100	298
Female staff	40.0	30.2	29.8	100	450
Non-White staff	37.3	27.1	35.6	100	118
Washington staff	37.7	32.2	30.2	100	640
District staff	27.5	44.9	27.5	100	247
Staff earning < \$30,000	33.3	37.0	29.6	100	297

If you thought you had been subjected to a violation of fair employment practices, would any of the following reasons make you:

K: unlikely to initiate an inquiry with OFEP?

L: unlikely to file a complaint with OFEP?

K: Unlikely to initiate an inquiry?

**6. Concern that processing a complaint through formal channels would not be worth the time and energy**

	Yes	No	Maybe	Total %	(N)
All Respondents	41.1	30.6	28.3	100	911
Democratic staff	42.4	28.4	29.2	100	589
Republican staff	39.0	34.4	26.6	100	305
Female staff	43.4	28.9	27.8	100	461
Non-White staff	42.0	28.6	29.4	100	119
Washington staff	42.8	28.9	28.3	100	657
District staff	36.5	34.9	28.5	100	249
Staff earning < \$30,000	37.6	35.0	27.4	100	303

L: Unlikely to file a complaint?

**6. Concern that processing a complaint through formal channels would not be worth the time and energy**

	Yes	No	Maybe	Total %	(N)
All Respondents	44.5	25.3	30.3	100	895
Democratic staff	44.9	23.3	31.8	100	579
Republican staff	44.0	28.5	27.5	100	298
Female staff	47.5	22.5	30.0	100	453
Non-White staff	41.0	24.8	34.2	100	117
Washington staff	47.0	23.4	29.5	100	644
District staff	38.1	30.0	32.0	100	247
Staff earning < \$30,000	40.9	28.9	30.2	100	298

This section of the questionnaire focuses on the Office of Fair Employment Practices in each chamber of Congress. Because each chamber has an independent office, your answers to the following questions should be based only on the office that serves the chamber for which you work.

**H. Before reading this questionnaire, did you know of the availability to you of the Office of Senate Fair Employment Practices (OSFEP)?**

	Yes	No	Total %	(N)
All Respondents	71.6	28.4	100	415
Democratic staff	70.9	29.1	100	244
Republican staff	71.6	28.4	100	162
Female staff	70.3	29.7	100	229
Non-White staff	48.7	51.3	100	39
Washington staff	80.8	19.2	100	291
State staff	49.6	50.4	100	121
Staff earning < \$30,000	54.9	45.1	100	162

Note: The last category "staff earning < \$30,000" contains those staff who reported on the questionnaire that their annual salary is less than \$30,000. Generally, these staff tend to be young, have little Congressional experience, and/or serve in office support functions.



**I: Thinking about OSFEP (in the Senate), describe your understanding of its mission and services.**  
**Check one item in each column.**

**A. Mission**

	Good Understanding	Partial/Limited Understanding	No Understanding	Total%	(N)
All Respondents	24.6	51.4	24.1	100	399
Democratic staff	22.6	51.7	25.6	100	234
Republican staff	26.9	50.0	23.1	100	156
Female staff	28.4	45.9	25.7	100	218
Non-White staff	16.7	47.2	36.1	100	36
Washington staff	28.2	53.6	18.3	10	284
State staff	15.2	45.5	39.3	100	112
Staff earning < \$30,000	13.0	51.3	35.7	100	154

**B. Services**

	Good Understanding	Partial/Limited Understanding	No Understanding	Total %	(N)
All Respondents	19.7	50.0	30.2	100	400
Democratic staff	18.5	50.2	31.3	100	233
Republican staff	20.9	50.0	29.1	100	158
Female staff	26.8	43.6	29.5	100	220
Non-White staff	13.9	50.0	36.1	100	36
Washington staff	22.2	53.1	24.6	100	284
State staff	13.3	41.6	45.1	100	113
Staff earning < \$30,000	9.2	49.7	41.2	100	153

## J. Through what sources have you learned about OSFEP? Check all that apply.

	OSFEP Materials	Contacting OSFEP Yourself	News Articles	Management in your Office	Written Info from Senate	Word of Mouth
All Respondents	33.7	6.0	30.8	32.9	21.4	18.5
Democratic staff	32.0	7.0	29.5	29.1	16.8	19.3
Republican staff	36.2	4.3	31.9	39.9	27.6	16.0
Female staff	36.1	8.7	24.3	36.1	21.3	17.4
Non-White staff	23.1	5.1	15.4	23.1	12.8	28.2
Washington staff	41.1	7.9	39.0	36.0	23.3	19.2
State staff	15.7	1.7	11.6	24.8	16.5	15.7
Staff earning < \$30,000	23.3	1.8	16.0	29.4	15.3	17.8

Note: Because some respondents learned about OSFEP from more than one source, each row of this table totals to more than 100%.

If you thought you had been subjected to a violation of fair employment practices, would any of the following reasons make you:

K. Unlikely to initiate an inquiry with OSFEP?

L. Unlikely to file a complaint with OSFEP?

K: Unlikely to initiate an inquiry?

1. Concern that your contact with OSFEP would not be kept confidential

	Yes	No	Maybe	Total %	(N)
All Respondents	28.6	46.2	25.1	100	370
Democratic staff	28.0	47.7	24.3	100	214
Republican staff	29.9	44.2	25.9	100	147
Female staff	32.2	43.8	24.0	100	208
Non-White staff	26.3	44.7	28.9	100	38
Washington staff	30.2	46.9	22.9	100	262
State staff	24.8	44.8	30.5	100	105
Staff earning < \$30,000	30.1	41.1	28.8	100	146

L: Unlikely to file a complaint?

1. Concern that your contact with OSFEP would not be kept confidential

	Yes	No	Maybe	Total %	(N)
All Respondents	32.8	44.3	23.0	100	366
Democratic staff	31.9	44.3	23.8	100	210
Republican staff	34.0	44.2	21.8	100	147
Female staff	34.8	41.5	23.7	100	207
Non-White staff	26.5	52.9	20.6	100	34
Washington staff	34.2	44.2	21.5	100	260
State staff	30.1	44.7	25.2	100	103
Staff earning < \$30,000	36.6	37.3	26.1	100	142

If you thought you had been subjected to a violation of fair employment practices, would any of the following reasons make you:

K: unlikely to initiate an inquiry with OSFEP?

L: unlikely to file a complaint with OSFEP?

K: Unlikely to initiate an inquiry?

2. Concern that OSFEP would notify your employer without your permission

	Yes	No	Maybe	Total %	(N)
All Respondents	28.9	48.8	22.3	100	367
Democratic staff	28.8	47.2	24.1	100	212
Republican staff	28.8	51.4	19.9	100	146
Female staff	33.5	43.2	23.3	100	206
Non-White staff	33.3	38.9	27.8	100	36
Washington staff	30.8	49.6	19.6	100	260
State staff	24.0	47.1	28.8	100	104
Staff earning < \$30,000	29.9	40.3	29.9	100	144

L: Unlikely to file a complaint?

2. Concern that OSFEP would notify your employer without your permission

	Yes	No	Maybe	Total %	(N)
All Respondents	31.3	48.1	20.6	100	364
Democratic staff	33.5	45.5	21.1	100	209
Republican staff	28.1	52.1	19.9	100	146
Female staff	34.6	41.3	24.0	100	208
Non-White staff	36.1	38.9	25.0	100	36
Washington staff	34.1	48.1	17.8	100	258
State staff	25.2	48.5	26.2	100	103
Staff earning < \$30,000	36.9	36.2	27.0	100	141

If you thought you had been subjected to a violation of fair employment practices, would any of the following reasons make you:

K: unlikely to initiate an inquiry with OSFEP?

L: unlikely to file a complaint with OSFEP?

K: Unlikely to initiate an inquiry?

3. Concern that you would be subject to retaliation from your employer

	Yes	No	Maybe	Total %	(N)
All Respondents	31.1	48.8	20.2	100	367
Democratic staff	33.5	45.3	21.2	100	212
Republican staff	27.2	53.1	19.7	100	147
Female staff	34.0	46.6	19.4	100	206
Non-White staff	29.7	51.4	18.9	100	37
Washington staff	35.7	45.0	19.4	100	258
State staff	19.8	58.5	21.7	100	106
Staff earning < \$30,000	30.6	44.4	25.0	100	144

L: Unlikely to file a complaint?

3. Concern that you would be subject to retaliation from your employer

	Yes	No	Maybe	Total %	(N)
All Respondents	35.4	43.1	21.5	100	362
Democratic staff	37.5	38.9	23.6	100	208
Republican staff	31.8	48.6	19.6	100	148
Female staff	36.4	42.2	21.4	100	206
Non-White staff	33.3	50.0	16.7	100	36
Washington staff	40.6	37.9	21.5	100	256
State staff	23.3	56.3	20.4	100	103
Staff earning < \$30,000	36.4	39.3	24.3	100	140



If you thought you had been subjected to a violation of fair employment practices, would any of the following reasons make you:

K: unlikely to initiate an inquiry with OSFEP?

L: unlikely to file a complaint with OSFEP?

K: Unlikely to initiate an inquiry?

4. Concern that your prospects of finding another congressional position would be jeopardized

	Yes	No	Maybe	Total %	(N)
All Respondents	40.6	36.2	23.2	100	367
Democratic staff	42.0	34.9	23.1	100	212
Republican staff	39.0	37.7	23.3	100	146
Female staff	43.2	31.6	25.2	100	206
Non-White staff	32.4	45.9	21.6	100	37
Washington staff	41.9	36.0	22.1	100	258
State staff	37.7	36.8	25.5	100	106
Staff earning < \$30,000	39.9	29.4	30.8	100	143

L: Unlikely to file a complaint?

4. Concern that your prospects of finding another congressional position would be jeopardized

	Yes	No	Maybe	Total %	(N)
All Respondents	44.2	31.0	24.7	100	364
Democratic staff	48.1	27.4	24.5	100	208
Republican staff	39.5	35.4	25.2	100	147
Female staff	44.9	27.1	28.0	100	207
Non-White staff	30.6	44.4	25.0	100	36
Washington staff	47.3	29.1	23.6	100	258
State staff	36.9	35.9	27.2	100	103
Staff earning < \$30,000	42.9	25.7	31.4	100	140

If you thought you had been subjected to a violation of fair employment practices, would any of the following reasons make you:

K: unlikely to initiate an inquiry with OSFEP?

L: unlikely to file a complaint with OSFEP?

K: Unlikely to initiate an inquiry?

**5. Concern that you would not receive fair treatment in a dispute between you and your employer**

	Yes	No	Maybe	Total %	(N)
All Respondents	24.3	48.2	27.5	100	367
Democratic staff	22.3	47.9	29.9	100	211
Republican staff	27.2	49.7	23.1	100	147
Female staff	25.7	46.1	28.2	100	206
Non-White staff	29.7	48.6	21.6	100	37
Washington staff	26.3	48.3	25.5	100	259
State staff	19.0	48.6	32.4	100	105
Staff earning < \$30,000	24.1	44.8	31.0	100	145

L: Unlikely to file a complaint?

**5. Concern that you would not receive fair treatment in a dispute between you and your employer**

	Yes	No	Maybe	Total %	(N)
All Respondents	27.2	46.2	26.6	100	364
Democratic staff	26.1	44.4	29.5	100	207
Republican staff	28.4	49.3	22.3	100	148
Female staff	26.6	44.4	29.0	100	207
Non-White staff	33.3	44.4	22.2	100	36
Washington staff	29.8	43.8	26.4	100	258
State staff	20.4	52.4	27.2	100	103
Staff earning < \$30,000	27.9	44.3	27.9	100	140

If you thought you had been subjected to a violation of fair employment practices, would any of the following reasons make you:

K: unlikely to initiate an inquiry with OSFEP?

L: unlikely to file a complaint with OSFEP?

K: Unlikely to initiate an inquiry?

**6. Concern that processing a complaint through formal channels would not be worth the time and energy**

	Yes	No	Maybe	Total %	(N)
All Respondents	38.8	32.5	28.7	100	369
Democratic staff	36.8	31.1	32.1	100	212
Republican staff	41.2	33.1	25.7	100	148
Female staff	36.1	34.6	29.3	100	208
Non-White staff	40.5	43.2	16.2	100	37
Washington staff	39.2	32.3	28.5	100	260
State staff	37.7	33.0	29.2	100	106
Staff earning < \$30,000	31.7	35.9	32.4	100	145

L: Unlikely to file a complaint?

**6. Concern that processing a complaint through formal channels would not be worth the time and energy**

	Yes	No	Maybe	Total %	(N)
All Respondents	40.2	29.8	30.1	100	366
Democratic staff	39.4	27.9	32.7	100	208
Republican staff	40.9	30.9	28.2	100	149
Female staff	37.3	30.6	32.1	100	209
Non-White staff	33.3	38.9	27.8	100	36
Washington staff	41.7	28.6	29.7	100	259
State staff	37.5	32.7	29.8	100	104
Staff earning < \$30,000	34.8	32.6	32.6	100	141

## Analysis of Sample

## General Staff Survey

	Estimated Actual %	Survey %	Survey N
<b>All Respondents</b>		100.0%	1422
House	67%	70.0%	993
Senate	33%	29.3%	416
Democratic staff	61%	63.4%	880
Republican staff	39%	36.6%	509
Personal staff	77%	75.0%	1067
Committee/subcomm. staff	23%	24.9%	355
Washington staff	70%	71.6%	1012
District/State staff	30%	28.4%	401
<b>House Respondents only</b>	67%	70.0%	993
Democratic staff	62%	64.5%	629
Republican staff	38%	35.5%	346
Personal staff	77%	75.9%	754
Committee staff	23%	24.1%	239
Washington staff	68%	71.7%	708
District staff	32%	28.3%	279
<b>Senate Respondents only</b>	33%	29.3%	416
Democratic staff	60%	60.0%	244
Republican staff	40%	40.0%	163
Personal staff	77%	74.0%	308
Committee staff	23%	25.9%	108
Washington staff	73%	70.7%	292
State staff	27%	29.3%	121

### Analysis of Sample

#### Administrative Assistant/Staff Director Responses to Both Surveys

	Actual N	Actual %	Survey N	Survey %
All Respondents	628	100.0%	360	57.3%
House	485	77.2%	297	82.7%
Senate	143	22.8%	62	17.3%
Democratic staff	366	58.3%	207	58.0%
Republican staff	262	41.7%	150	42.0%
Personal staff	540	86.0%	310	86.4%
Committee staff	88	14.0%	49	13.7%



## OPTIONS FOR CONGRESSIONAL COMPLIANCE

### I. OPTIONS FOR DIFFERENT COMPLIANCE ADMINISTRATION.

- A. Consolidate compliance enforcement into three offices--House, Senate, and support offices
- B. Consolidate all compliance enforcement into one legislative branch office
- C. Provide for executive branch administration (e.g., Equal Employment Opportunity Commission)

### II. OPTIONS FOR ADDITIONAL FUNCTIONS WITHIN CURRENT OFEP STRUCTURE.

- A. House of Representatives
  - 1. Have House Office of Fair Employment Practices (HOFEP) increase its informational and educational activities
  - 2. Provide for outside hearing officers
- B. House of Representatives and Senate
  - 1. Have HOFEP and Senate Office of Fair Employment Practices (SOFEP) investigate complaints
  - 2. Judicial review
    - a. Senate
    - b. House

### III. OPTIONS FOR APPLYING ADDITIONAL LAWS TO CONGRESS.

- A. Legislative branch instrumentalities and other entities
  - 1. Ensure that the same laws, with the same remedies and procedures, apply to all the instrumentalities
  - 2. Ensure appropriate treatment of entities such as the Capitol Police which serve both the House and Senate. Special legislative provisions for such entities might be required.

B. Senate

1. Fair Labor Standards Act and Equal Pay Act

C. House

1. Age Discrimination in Employment Act and Rehabilitation Act

D. House and Senate

1. National Labor Relations Act and Federal Labor-Management Relations Statute
2. Occupational Safety and Health Act
3. Freedom of Information Act and Privacy Act
4. Various Conflict of Interest and Ethics Laws
  - a. Independent counsel provisions of Ethics in Government Act of 1978
  - b. 18 U.S.C. § 205
  - c. 18 U.S.C. § 208
  - d. 18 U.S.C. § 209

## OPTIONS FOR CONGRESSIONAL COMPLIANCE

The discussion below outlines some of the major options for legislative action, and includes arguments that might be advanced for and against these options. The various options are not necessarily mutually exclusive and the listing is not a definitive one.

## I. OPTIONS FOR DIFFERENT COMPLIANCE ADMINISTRATION.

## A. Consolidate compliance enforcement into three offices--House, Senate, and support offices

## Pro -

- Ensure similar treatment of similar cases in different support offices.
- Reduce personnel and other costs of separate administration by support entities.

## Con -

- Differences in personnel and missions of support offices require separate administration.
- Consolidation of administration for support offices would result in a large bureaucratic enforcement entity.

## B. Consolidate all compliance enforcement into one legislative branch office

## Pro -

- Ensure similar treatment of similar cases in House, Senate, and support offices.
- Reduce personnel and other costs of separate administration.

## Con -

- Differences in laws applicable to House, Senate, and support office personnel require separate administration.
- Differences in personnel and functions of House, Senate, and support offices require separate administration to allow administrative entity to develop expertise required to apply the laws.
- Consolidation would result in large, bureaucratic enforcement entity.

- C. Provide for executive branch administration (e.g., Equal Employment Opportunity Commission).

Pro -

- Equality of treatment of Members of Congress and employers in the executive branch and the private sector demands that Members be subject to the same rigorous enforcement authority as other employers.
- Would ensure similar treatment of similar complaints filed by employees in the legislative and executive branches and those in the private sector.
- Executive branch enforcement agencies already have expertise in applying the laws.
- Would preclude need to establish and maintain legislative branch enforcement offices.

Con -

- Separation of powers doctrine may bar vesting enforcement authority in executive branch entity.
- Differences in staff and, in some cases, of statutory rights between legislative branch employees and others requires separate administration for the legislative branch.
- Executive branch enforcement could subject the Congress to the whims of an overzealous executive.

II. OPTIONS FOR ADDITIONAL FUNCTIONS WITHIN CURRENT OFEP STRUCTURE.

A. House of Representatives

1. Have House Office of Fair Employment Practices (HOFEP) increase its informational and educational activities.

Pro -

- Employees would be more likely to utilize HOFEP's services if more information about the office were to be provided to staff on a regular basis.

Con -

- Factors other than lack of awareness by staff of their rights are responsible for fact that few complaints are filed with HOFEP.

## 2. Provide for outside hearing officers

### Pro -

- To meet criticisms of those who argue that Congress does not effectively and objectively investigate allegations of misconduct by Members, the House procedure might be amended to include independent hearing officers (i.e., ones who are not Members or officers or employees of the House) as in the case of the Senate.
- Outside hearing officers could have more expertise in applying these laws.

### Con -

- Outsiders would be unfamiliar with House rules, procedure, precedents, and customs.

## B. House of Representatives and Senate

### 1. Have HOFEP and SOFEP (Senate Office of Fair Employment Practices) investigate complaints

#### Pro -

- Complaints filed by executive branch and private sector employees are investigated, and those filed by House and Senate employees should be accorded similar treatment.

#### Con -

- Imposition of additional duties on HOFEP and SOFEP would require additional staff and delay proceedings on complaints.

## 2. Judicial review.

At present, there is a right of appellate judicial review for Senate employees (pursuant to a provision of the Civil Rights Act of 1991) but no judicial review for House employees. As to the Senate, the issue is whether the right to judicial review should be expanded to include de novo review. As to the House, the issue is whether any judicial review provision--appellate or de novo--should be adopted.



## a. Senate

## Pro -

- Executive branch employees, some legislative branch employees (e.g. Library of Congress and GAO), state government employees, and the private sector all have a right to de novo review in federal district court and equality of treatment demands that a similar right be granted to Senate staff.

## Con -

- Staff rights can be adequately protected by appellate review and thus there is no need to subject Members to the burdens of defending themselves in trial proceedings.
- No right to de novo review should be granted until there has been a final judicial determination of the constitutionality of the right to appellate review granted by the Civil Rights Act of 1991.

## b. House

## Pro -

- House employees should have at least the right to appellate review which their Senate counterparts have; preferably, House staff should also have the right to de novo review enjoyed by executive branch employees.
- An internal enforcement mechanism, with no review by an independent tribunal, is inherently unable to afford adequate protection to employees, and may lead to differing interpretations of law.

## Con -

- The House should not grant judicial review until the constitutionality of the Senate procedure has been determined by the courts.
- The review panel under the HOFEP procedure might be viewed as performing, in cases of alleged discrimination in the House, a role that is somewhat analogous to that of the court of appeals under the 1991 Civil Rights Act in discrimination cases in the Senate.

### III. OPTIONS FOR APPLYING ADDITIONAL LAWS TO CONGRESS.

#### A. Legislative branch instrumentalities and other entities

The various civil rights, labor, information, and conflict laws do not apply uniformly to the legislative instrumentalities, including the Architect of the Capitol, Congressional Budget Office, General Accounting Office, Government Printing Office, Library of Congress, Office of Technology Assessment, and the U.S. Botanic Garden. There are also certain differences in remedies and procedures available to employees of the different instrumentalities. Additionally, some concerns have been raised in regard to the application of laws (including remedies and procedures) to entities such as the Capitol Police which serve both the House and Senate.

1. Ensure that the same laws, with the same remedies and procedures, apply to all the instrumentalities.

##### Pro -

- Fairness requires that employees of the various instrumentalities in the legislative branch be accorded similar treatment.

##### Con -

- The laws, remedies, and procedures applicable to the instrumentalities should be drafted in light of differences in their histories, functions and personnel.

2. Ensure appropriate treatment of entities such as the Capitol Police which serve both the House and Senate. Special legislative provisions for such entities might be required.

##### Pro -

- These entities are unique and may warrant different legislative treatment than other employees of Congress or of the legislative branch instrumentalities.

##### Con -

- Employees of such entities should be treated the same as other House and Senate employees to avoid creating too many categories of legislative branch personnel.

## B. Senate

## 1. Fair Labor Standards Act and Equal Pay Act.

The Fair Labor Standards Act (FLSA), which establishes, inter alia, minimum wage and maximum hour standards for covered employees, and the Equal Pay Act (EPA), which prohibits discrimination between employees on the basis of sex in the payment of wages, apply to the House pursuant to the Fair Labor Standards Amendments of 1989. However, professional staff members are exempt from the minimum wage and maximum hour provisions pursuant to § 13(a) of the FLSA.

## Pro -

- Senate staff should be granted the same rights as employees of the House and covered employees in the executive branch and private sector.

## Con -

- The practical import of extending the FLSA to the Senate is questionable since, as in the case of the House, many staff would be exempt from coverage under the minimum wage and maximum hour provisions because they are professionals.
- Applying the EPA to the Senate might be of no significance since discrimination on the basis of sex with regard to compensation is already prohibited by Senate Rule XLII.

## C. House

## 1. Age Discrimination in Employment Act (ADEA) and Rehabilitation Act

## Pro -

- Senate employees are covered by these laws barring discrimination in employment on the basis of age and handicap and House employees should be treated similarly.

## Con -

- It is not necessary to extend the ADEA and the Rehabilitation Act to the House because the House Fair Employment Practices Resolution (FEPR) prohibits discrimination in House personnel matters on the basis of, inter alia, age and handicap. By its terms, FEPR is to be interpreted to reflect "principles of current

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law, as generally applicable to employment." Thus, FEPR arguably prohibits in House personnel actions discrimination covered under statutes such as the ADEA and the Rehabilitation Act.

#### D. House and Senate

##### 1. National Labor Relations Act and Federal Labor-Management Relations Statute

###### Pro -

- Congressional employees should be covered either by the National Labor Relations Act (NLRA), which applies to the private sector, or by the Federal Labor-Management Relations Statute, the federal counterpart to the NLRA, which covers most executive branch agencies as well as the Library of Congress and the Government Printing Office.

###### Con -

- It would be impractical to apply the NLRA, which authorizes strikes, to the House and Senate because work stoppages would interrupt the legislative schedule.
- The consequences of applying the Federal Labor-Management Relations Statute to Congress are uncertain. Although strikes are not authorized by that law, it would require Congress (or, depending on the way the measure is drafted, individual congressional offices) to engage in collective bargaining with employee representatives with respect to conditions of employment, and it would permit the filing of unfair labor practice complaints against Congress or congressional offices.

##### 2. Occupational Safety and Health Act (OSHA)

###### Pro -

- Congressional employees should enjoy statutory protection available to private sector employees from personal injuries and illnesses resulting from work situations.

###### Con -

- Inspections of work sites and investigations of alleged violations under OSHA would impose unwarranted demands on congressional operations.
- The law does not apply to all operations of the executive branch.

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- It would be sufficient if Congress, like executive branch agencies, established occupational safety and health programs that are consistent with standards promulgated by the Secretary of Labor under the act.

### 3. Freedom of Information Act (FOIA) and Privacy Act

#### Pro -

- Congress should be covered by the same laws governing the disclosure of information as executive branch agencies.
- The purpose of the FOIA--assuring an informed citizenry--would be served by congressional coverage.
- The purpose of the Privacy Act--guarding against government abuse of records maintained concerning individuals--would be served by congressional coverage.

#### Con -

- Application to House and Senate would impinge on Congress' constitutionally-based privilege with regard to its papers.
- Would impose administrative burdens on congressional offices.
- Would involve Congress in considerable litigation.
- Congress makes readily available information about floor proceedings and committee hearings; it also publishes committee reports and House and Senate documents.
- The exemptions in the law today would exempt most other congressional documents.

### 4. Various Conflict of Interest and Ethics Laws

#### a. Independent counsel provisions of Ethics in Government Act of 1978 (provisions have recently expired, reauthorization is pending)

#### Pro -

- Members, like top-ranking executive branch officials, should be subject to investigation and prosecution by an independent counsel.

#### Con -

- Members were subject to investigation and prosecution under the discretionary (rather than the automatic) provisions of the act.
- No inherent conflict of interest prohibits the Justice Department from investigating and prosecuting Members.



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b. 18 U.S.C. § 205 (acting, in a private capacity, as an agent or attorney for a private party in a governmental matter)

Pro -

- Members should be covered by the same restrictions as apply to executive branch officers and employees.

Con -

- Application to Members would have little effect since Members are subject to similar restrictions in 18 U.S.C. § 203 and are also prohibited from practicing any profession for compensation which involves a "fiduciary relationship" (see 5 U.S.C. app. 7, § 502)

c. 18 U.S.C. § 208 (requires disqualification of an official in certain governmental matters in which he has a financial conflict of interest)

Pro -

- Members should be covered by the same restrictions as apply to executive branch officers and employees.

Con -

- If a Member were disqualified from voting on an issue, his entire constituency would be disenfranchised.
- Representative nature of Member's role does not mandate that he be free of all financial conflicts in voting on legislation.

d. 18 U.S.C. § 209 (bars additional private compensation, etc., for activities within the scope of one's governmental duties)

Pro -

- Members should be covered by the same restrictions as apply to executive branch officers and employees.

Con -

- Members are currently restricted in receipt of honoraria for speaking and writing on any subject (5 U.S.C. app. 7, § 501(b)).
- Application of 18 U.S.C. § 209 to reimbursement of Members' travel expenses may result in reduced contact between Members and the public.

The Joint Committee on the Organization of Congress  
Database of Positional Statements

*This database was prepared by Committee staff as a tool for our Members. This is not for re-publication or attribution. This matrix is an attempt to accurately reflect the views of our witnesses but should not be used as a substitute for the actual hearing record.*

## ISSUE AREA 7: APPLICATION OF LAWS

### List of Options Proposed

1. Apply Laws to Congress
2. Establish a Unified Office of Compliance
3. Establish Additional Functions within Current House/Senate OFEP Structure
4. Expand Coverage of Laws to Include Individuals Who Work With Congress
5. Judicial Review

Proposed: Apply Laws to Congress

## APPLICATION OF LAWS:

### 1. Apply Laws to Congress

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Amwine, Barbara - Lawyers' Committee for Civil Rights	6/8, 64	Expand coverage of House employees under anti-discrimination and employment laws
	Bruff, Harold - George Washington University	6/8, 45	
	Frederick, David - Shearman & Sterling	6/8, 46	
	Frenzel, Bill - Former Representative	1/28, 11	
	Greenberger, Marsha - National Women's Law Center	6/8, 60	Expand coverage of House employees under anti-discrimination and employment laws
	Mann, Thomas - Brookings Institution	2/16, 157	
	Mason, David - Heritage Foundation	2/16, 38	Present Members' and employees' subpoenas to the whole body of Congress
	Massee, Ned - U.S. Chamber of Commerce	6/29, 75	
	Mondale, Walter - Former Vice-President	7/1, 18	
	Omstein, Norman - American Enterprise Institute	2/16, 157	
	Representative Allard	2/4, 71	
	Representative Bacchus	2/4, 32	
	Representative Boehner	2/4, 59	Would not allow the executive branch to enforce these laws
	Representative Bonilla	2/4, 223	
	Representative Buyer	6/16, 225	
	Representative Castle	2/4, 121	
	Representative Crapo	2/4, 81, 199	
	Representative Dickey	2/4, 50	

Proposal: Apply Laws to Congress

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Representative Dreier	6/8, 26	
	Representative Fawell	6/8, 34	
	Representative Fingerhut	4/1, 19	
	Representative Fowler	4/1, 26	
	Representative Gephardt	1/26, 31	
	Representative Goodlatte	6/16, 56	
	Representative Goodling	2/4, 19	
	Representative Hastert	2/4, 240	
	Representative Hefley	2/4, 31	
	Representative Hoyer	5/25, 278	
	Representative Hyde	2/23, 25	
	Representative Kim	2/4, 95	
	Representative Mann	2/4, 49, 154	
	Representative Mazzoli	2/4, 55	
	Representative McCurdy	2/4, 37	
	Representative McHale	2/4, 83	
	Representative Michel	1/26, 35-6	
	Representative Quinn	2/4, 188	
	Representative Schroeder	5/27, 4	Except Freedom of Information Act, which may allow for the release of constituent mail, etc.
	Representative Shays	6/8, 36-37	
	Representative Shepherd	4/1, 19	
	Representative Snowe	5/27, 4	
	Representative Swett	6/8, 32-33	
	Representative Torkildsen	4/1, 26	
	Representative Upton	2/4, 52	Occupational Safety and Hazard Act and labor laws only

Proposal: Apply Laws to Congress

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Ross, Steven - Former General Counsel to the House	6/8, 54	
	Schatz, Tom - Citizens Against Government Waste	6/29, 89	
	Senator Brown	2/2, 48	
	Senator Dorgan	6/29, 110, 273	
	Senator Grassley	2/2, 40; 6/8, 25	
	Senator Murray	4/1, 38	
	Senator Nickles	2/2, 114; 6/8, 26	
	Senator Reid	5/27, 17	Within the framework of the constitution only
	Wertheimer, Fred - Common Cause	6/29, 78	Congressional employees should have the same rights as executive branch employees



Proposal: Establish a Unified Office of Compliance

## APPLICATION OF LAWS:

### 2. Establish a Unified Office of Compliance

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Ross, Steven - Former General Counsel to the House	6/8, 58	
For	Bruff, Harold - George Washington University	6/8, 57	
	Frederick, David - Shearman & Sterling	6/8, 48	Supports uniform coverage of laws to House and Senate
	Lund, Nelson - George Mason University	6/8, 59	
	Mann, Thomas - Brookings Institution	2/16, 33, 157	Would create an Office of Congressional Compliance
	Ornstein, Norman - American Enterprise Institute	2/16, 33, 157	Would create an Office of Congressional Compliance
	Representative Norton	2/16, 41	
	Representative Schroeder	5/27, 18	
	Representative Shays	6/8, 37	Would create an Office of Compliance
	Representative Snowe	5/27, 5	Would create an Office of Compliance
	Senator Dorgan	6/29, 111	
	Senator Reid	5/27, 18	

Proposal: Establish Additional Functions within Current House/Senate OFEP Structure

### APPLICATION OF LAWS:

#### 3. Establish Additional Functions within Current House/Senate OFEP Structure

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
House OFEP should increase awareness of its existence, investigate complaints, & provide for judicial review	Armwine, Barbara - Lawyers' Committee for Civil Rights	6/8, 64-65	
	Representative Schroeder	5/27, 4, 6-7	
	Representative Snowe	5/27, 4, 6-7	
House OFEP should increase awareness of its existence and provide for judicial review	Greenberger, Marsha - National Women's Law Center	6/8, 62	
Provide for judicial review	Senator Grassley	6/8, 25	
	Senator Nickles	6/8, 28	

Proposal: Expand Coverage of Laws to Include Individuals Who Work With Congress

### APPLICATION OF LAWS:

#### 4. Expand Coverage of Laws to Include Individuals Who Work With Congress

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Greenberger, Marsha - National Women's Law Center	6/8, 62	

## APPLICATION OF LAWS:

### 5. Judicial Review

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Ross, Steven - Former Counsel to the House	6/8, 55	
For	Lund, Nelson - George Mason University	6/8, 50-51	
	Representative Fawell	6/8, 34-35	
	Representative Norton	5/27, 13	Appellate review only
	Representative Schroeder	5/27, 4	Judicial review with retired judges only
	Representative Snowe	5/27, 7	Judicial review with retired judges only
	Senator Grassley	6/8, 24-25	

·HEARING SUMMARY, JUNE 10, 1993

Five Witnesses: Joseph E. Ross, Charles A. Bowsher, Roger C. Herdman, Robert D. Reischauer, and Michael F. DiMario.

Vice-Chairman Dreier commenced the hearing, stating that today the Joint Committee would look at the role played by the support agencies. One-fourth of legislative activity is carried out by the support agencies. Some of the questions that need to be addressed are: what are the missions of these agencies, are these missions appropriately defined, are the sizes of the agencies appropriate, and are the resources of the agencies equally available to all Members of Congress?

Panel Presentation by Joseph E. Ross, Charles A. Bowsher, Roger C. Herdman, Robert D. Reischauer, and Michael F. DiMario.

Joseph E. Ross, Director, Congressional Research Service (CRS)

There are three aspects of CRS that should be of particular interest to Congress. First, there are the people, including lawyers, economists, and librarians. The people are information experts and there are experts in every possible field. Second, is responsiveness. We truly are just a phone call away besides being just across the street. The information we provide is also available in a variety of formats including phone conversations, memos and exhaustive research reports. Finally, we work for Members of Congress only.

The mission of CRS is to advise and assist congressional committees in analysis, appraisal, and evaluation of legislative proposals, estimating probable results, and evaluating alternatives. CRS works directly and exclusively for all Members and committees of Congress in support of their legislative, oversight, and representational functions. The research, analysis, and information services provided are timely, objective, nonpartisan, and confidential. Support by CRS is provided at all stages of the legislative process, from the development of proposals, to the preparation and conduct of hearings, to mark-up and the writing of reports, to floor consideration, conference, and beyond to implementation and oversight. During 1992, CRS completed nearly 650,000 requests for Congress, including several thousand for briefings, consultations, and memoranda; 280,000 for specifically tailored analysis, information, and research; and 360,000 for other CRS products and services.

CRS is permanently authorized. Principle oversight committees include the Joint Committee on the Library, the Committee on House Administration, the Senate Committee on Rules and Administration, and the House and Senate Subcommittees on Legislative Branch Appropriations.

CRS services are designed and produced solely for Congress. CRS has no other client. Its characteristics set it apart from all other public and private policy



institutions as it contributes to an informed legislature in a unique way. These characteristics are:

- 1) Availability to all Members.
- 2) Timeliness, Confidentiality, and Balance.
- 3) Range of expertise and integrated response capability.
- 4) Objectivity and balance.
- 5) Wide array of forms of response.
- 6) Training tailored to Congress.

CRS also serves as the institutional memory for the Congress. The knowledge and experience CRS acquires from working closely with Congress becomes invaluable when addressing similar issues in the future, often with new or less experienced Members or committee staff.

As part of its continuing efforts to avoid duplication with the other congressional support agencies and to foster effective coordination among sister agency staff, the Service undertakes both formal and informal activities to insure regular communication and to encourage ongoing working relationships. The agencies have formed a group, the Interagency Liaison Group, to assure that coordinating arrangements are working effectively. Thus, senior administrative staff from each agency meet approximately every six weeks to review all new major research starts and unusually large research projects. Other efforts in coordinating and avoiding duplication are: subject specialization meetings, joint projects, reviewing draft reports and referencing other agency reports, interagency contact list and folder, and public policy literature file and CRS products databases.

In 1989, the Service undertook a two-year review of its missions, operations, organization, and planning processes. As a result, a number of institutional innovations and adjustments have been implemented such as weekly meetings of the senior managers of each administrative unit. In addition, CRS sought to improve services and their accessibility.

CRS has maintained a steady staff rate even though workload has been increasing by 6% each year. As a result we must work to increase efficiency without expanding resources. CRS employs programs to produce staff diversity. Pursuant to an agreement with the Congressional Research Employees Association (CREA), we have implemented an internal affirmative action program (Target Series Development) with competition limited to Library staff members. CRS has also developed a strategy for implementation of the Library's Multi-Year Affirmative Action Plan that is intended to eliminate under-representation and grade level disparity among minorities, women, and persons with disabilities. CRS has also implemented the Graduate Recruit Program and the Law Recruit Program, both of which have a strong affirmative action emphasis. These two programs have allowed us to add 35 recruits to our permanent staff, including 23 members of minority groups and 20 women. A Library-wide hiring freeze, however, has postponed further use of these programs.

CRS has made significant progress during the past five years in its efforts to use technology to operate more efficiently, improve the quality of its products and services, improve the timeliness of its responses, and to manage its workload. The use of such technology in conjunction with CRS's other programs allow it to meet the needs of Congress.

Charles A. Bowsher, Comptroller General of the United States, General Accounting Office (GAO)

In 1921, budget authority of the executive branch was centralized in the Office of the President. In return for the creation of the Budget Bureau, Congress created GAO, within the legislative branch, to monitor and audit federal expenditures. We see our mission as seeking to achieve honest, efficient management and full accountability throughout government. GAO has always existed to serve the needs of the Congress; most of GAO's work is done for congressional committees, principally through independent evaluations of federal programs and policies, financial audits, legal opinions, and recommendations for improving the effectiveness and efficiency of government.

GAO had 14,000 employees after World War II, but for the last twenty years the agency has maintained a workforce of 5,000 employees. Eighty percent of our costs are wages. Money also goes to the cost of computers which make our work possible. In addition, we are currently removing asbestos from our building and that has caused our budget to rise. With this rise in budget, there has also been an increase in our workload. The production rate for congressional testimony has increased 147% over an eight-year period. This shows the extent to which congressional committees are increasingly finding GAO's work relevant to and useful in addressing issues of concern to Congress.

Our people are out in the field. We have 15 regional offices throughout the country as well as one in Europe. We do not make policy, our work is used by Congress or the President to make decisions. We study programs, report, and make recommendations. In this way, our reports have an impact on programs. For example, GAO's oversight of FAA's \$33 billion air traffic control modernizing program was crucial to helping Congress make funding decisions and encouraging FAA to change its acquisition process. In the mid-1980's, GAO began reviewing the overall management of agencies. The major goal of these general management reviews was to outline for the leaders of executive branch agencies the importance of improving their management practices.

GAO realizes that it may have to undergo downsizing and it is willing to do its part. In order to do this without harming our productivity, we must ensure that an arrangement is worked out that would protect the talent and diversity of our employees. If downsizing is done haphazardly or too quickly, we will lose talented and experienced people, thus reducing our technical and subject area expertise that have taken years to develop. It would also do violence to the gains we've made in building a diverse workforce. Congress must also realize that a smaller GAO means fewer reports and testimonies in the future.

Roger C. Herdman, M.D., Director, Office of Technology Assessment (OTA)

There are two aspects of OTA which distinguish us as an interesting and important institution of government. These two aspects are the Technology Assessment Board (TAB), OTA's Congressional governing board, and the OTA research and review process which is common to all of OTA's assessments.

OTA alone among the congressional support agencies reports to a congressional board. TAB is an equally bicameral, bipartisan body composed of "(1) six Members of the Senate, appointed by the President pro tempore of the Senate, three from the majority party and three from the minority party, (2) six Members of the House of Representatives appointed by the Speaker of the House of Representatives, three from the majority party and three from the minority party" (P.L. 92-484). The political balance in representation between the two parties and two chambers helps to ensure balance in OTA's agenda and operation.

TAB appoints the Director of OTA. OTA's directors have understood that successful leadership of the agency depends on the bipartisan support of the board. The frequent interactions and close relationship with the twelve members of TAB also provide OTA with an especially close relationship to Congress and insights into congressional activities which are particularly useful in informing OTA reactions. TAB sets policy and approves procedures for OTA, including appropriations requests. TAB gives OTA's appropriations requests bipartisan approval, and bipartisan support at the time of hearings before the Legislative Subcommittee.

TAB controls OTA's work flow and oversees OTA's performance. In addition, TAB tracks OTA's budget, approves all requests for major reports, and at all times, particularly in times of tight resource constraints, prevents OTA from being overwhelmed or pressured by excessive requests. As TAB supervises OTA's advisory and peer review process, it helps ensure the accuracy, and completeness and scientific sophistication of OTA's reports by requiring national expert and stakeholder representation on panels, thereby ensuring that OTA considers all legitimate positions and interests but insulating OTA from undue pressure and influence from interest groups and other parts of the Congress.

OTA believes that the board is one of its major assets. TAB provides a unique window to Congress and puts OTA comfortably in the position of being able to focus on the merits and facts in each study.

OTA is charged with looking into "physical, biological, economic, social and political effects" as they relate to "technological applications" (P.L. 92-484). OTA's technology focus is not always immediately apparent. For example, recent work on converting the U.S. economy to a post cold war era, After the Cold War: Living With Lower Defense Spending, may strike at first glance as a narrow economic analysis. However, our dilemmas concerning defense conversion are in many respects technology-based. The Nation's ability to withstand the economic shock of a defense build down and to negotiate its way to a restructured economy in a more



globally competitive world is determined in large measure by the existing technology base of U.S. industry and how those resources can be redirected.

In the preparation of any report, the final task of OTA is a national peer review. Aside from the clear benefits of a variety of suggestions and corrections from a large group of national parties of interest, this final process seeks to ensure that no perceived bias, error, or omission of substantial magnitude will escape notice.

The two aspects of OTA, described above, are the central features that differentiate OTA's work for the Congress. Together they explain OTA's determination and capacity to produce impartial, detailed, accurate and scientifically sophisticated work for client committees. Although much of OTA's output is in the form of multi-year reports, even the shorter, more sharply focused and timely work that OTA is producing today benefits from external input, project specific staffing, careful internal and external review, doctorate level senior staff, and the influence of OTA's culture and Board for non-partisan, non-ideological impartiality.

Robert D. Reischauer, Director, Congressional Budget Office (CBO)

The mission of CBO is to provide the Congress with objective, timely, nonpartisan analyses needed for economic and budgetary decisions and the information and estimates required for the Congressional budget process. Our services to Congress can be grouped into three categories based on this mission: helping the Congress formulate a budget plan, helping the Congress stay with that plan, and helping the Congress consider policy issues related to the budget and the economy.

The House and Senate Budget Committees prepare the annual Congressional budget plan, drawing on the views and estimates of the other committees. CBO plays a role in this by providing economic forecasts and budget projections, and by providing a collection of spending and revenue options for reducing the budget deficit. CBO is the only entity of the Legislative Branch whose mandate includes making economic forecasts and projections. Projections of the economy present a long-term view, based on trends in the labor force, productivity, and savings. The purpose of CBO's biannual budget projections is to give the Congress a baseline for measuring the effects of proposed changes in taxing and spending laws. CBO's volume of deficit reduction options is prepared as part of its annual report. The volume discusses various strategies for reducing the deficit and analyzes the likely impacts of more than 200 specific spending and revenue options that the Congress may consider.

Once the Congress adopts the annual budget resolution, the Budget Committees take the lead in enforcing its provisions. To help them in this work, CBO estimates the budgetary impact of bills reported by the different committees. CBO also prepares a series of sequestration reports that advise Congress and the Administration on two matters: whether the appropriation limits for discretionary spending established by the Budget Enforcement Act have been exceeded and

whether the enactment of any direct spending or receipt legislation has increased the budget deficit.

CBO's responsibilities also entail analyzing specific program and policy issues that affect the federal budget and the economy. The analyses cover a variety of federal activities, describing current policies, examining other approaches, and projecting how these alternatives would affect current programs, recipients or taxpayers, the federal budget, and the economy. In keeping with its nonpartisan mandate, CBO does not offer recommendations on policy in these studies.

Before the Congressional Budget Office existed, only the President had a comprehensive source of information on the budget. In creating CBO, the Congress has established its own source of information on these matters, which can be used to make policy decisions or to evaluate information supplied by the Executive Branch. If the Congress is to maintain an equal role in the budget process, it must maintain a source of information that is independent of the Executive Branch.

Michael F. DiMario, Acting Public Printer, Government Printing Office (GPO)

The Government Printing Office came into existence in 1861 as a result of the need to reform printing and centralize all federal printing. GPO's statutory mission is to provide printing and binding services to the Legislative, Executive, and Judicial branches of the Federal Government, and distribute Government documents to the public. This is to be done in a timely, economical, and consistent manner. Congressional printing comprises the major product line of GPO's Central Office plant. During fiscal year 1992, the Central Office plant produced work valued at \$164.6 million. Of this amount, approximately \$89.6 million was for Congressional work.

GPO's publications distribution mission is carried out by the Superintendent of Documents through 6 major programs: sales, distribution performed by Federal agencies on a reimbursable basis, distribution to depository libraries and international exchange libraries, distribution performed on a statutory basis, and cataloguing and indexing of Government publications.

Unlike most Government agencies, GPO finances all of its activities through a business-like Revolving Fund. As of March 31, 1993, GPO recorded a loss of \$8.6 million for the first half of fiscal year 1993. A variety of factors were responsible for the losses, including oversized administrative and supervisory staffing, a reduction in workload due to the 1992 election and on-going transition process, reductions in workload due to agencies withholding work in violation of Title 44, and a reduction of procured printing revenues due to the recessionary economic climate. Plans to deal with the financial situation at GPO include several cost-reduction measures, such as a hiring freeze and a plan for reducing supervisory ranks, which are already underway.

GPO offers several policy benefits. It would be far more expensive for the taxpayer to decentralize Federal printing. In addition, it is more efficient to run



both Congressional and agency printing work in GPO rather than separating the production processes for each. A centralized Government printing operation also makes it possible to implement certain environmental and other printing reforms with a Government-wide impact.

There are a variety of issues facing GPO which need to be remedied. The most important of these concerns a failure on the part of Federal agencies to follow the requirements of Title 44 closely. A related issue involves the on-going consolidation of all Department of Defense printing activities. Instead of an effort to send an increased volume of DOD in-house printing to GPO for cost-effective procurement from the private sector, there is a movement in DOD to establish an internal printing capability that in virtually every respect will duplicate GPO's printing and printing procurement operations. A third problem is new programs and plans of NTIS that will duplicate GPO's mission to disseminate Government information. As a result, there will be a reduction in Government information processed through GPO and made available to the public. Finally, OMB's Circular No. A-130, containing policy guidance to Federal agencies on the management and dissemination of Government information, has consistently failed to incorporate references to the information policies and procedures established by Title 44. OMB Circular No. A-130 should be revised to be consistent with current Congressional and JCP policy guidance on Title 44.

#### Questions and Answers

Reid: This group of gentlemen allows us to be as responsive as we are. We are able to respond to constituents and go prepared to committee meetings because of all of you. We will not be looking at support agencies to see where the problems are. You are what is good about Congress. We need to find ways to lessen their load. Maybe there should be a limit on who is able to make requests so that only chairs and ranking members are able to make requests. We need to be careful not to limit support agency staff and then increase their workload.

Emerson: Your [Reid's] comments are provocative. Certain agencies need their functions enhanced and their resources improved. CRS is the single greatest indispensable support agency. They provide us with a greater opportunity to do our job. We should enhance them.

Reid: We can not do this with bills that have across the board cuts. We can not increase workload and cut staff.

Emerson: That bill is up under restrictive rules. The minority can not make any changes, except for across the board cuts. It would be better to cut committee staff and increase money for support agencies, but restrictive rules are hurting our abilities to make changes.

Reid: Let the Senate know that Members of the other body would rather enhance support agencies than limit them.

Hamilton: I appreciate all of your testimony. I have had occasion to use all of you. If you compare Congress to other parliaments, one difference is that we get help and they do not. The professional service of the support agencies is a distinguishing mark.

I want to know about figures, budget and personnel. We put a lot of money into you. In each case, your number of employees has decreased since 1984, except for CBO whose employment is slightly up. There has not been explosive growth. In regard to your budgets, there also has not been explosive growth. Only GAO has jumped up.

Bowsher: Eighty percent of our costs are wage increases. Back in the early 80's, there was pay compression. That issue was addressed and wages went up. In addition, our building contains asbestos and its removal has resulted in additional costs. We have also had to rent some extra office space while the asbestos is being removed. In effect, the building is undergoing a transition which has increased our budget temporarily. One other cost that we have faced is that of computerizing our operation.

Hamilton: I do not doubt the contribution that support agencies make to Congress. I do, however, want to make sure that you as leaders are constantly reviewing your work. You have a responsibility to provide rigorous review in order to see that all work is pertinent and relevant to Congress. How do you make sure of this? How do you exclude good work that is not relevant?

Ross: Our staff is constantly making relevancy judgments. The not-so-important things get a back seat. Fifteen percent of our workload is responding to the constituent mail which you send to us. It has been our policy, supported by the Joint Committee on the Library, that these requests have no deadline and can be given low priority.

Hamilton: Constituent mail seems relevant and should be taken care of immediately. I am worried about wonderful memos that no one ever sees.

Ross: We respond to request from Members of Congress. Sometimes staff ask us for things that are not directly for Members. We sort those out and give them low priority.

Reischauer: Ninety nine percent of our work is done at the request of chairs or ranking members. We do some work for individual Members, but usually we work for committees and subcommittees.

Herdman: We respond to committee and subcommittee chairs and ranking members. Our board, 12 Members of Congress, approves everything that we do.

Hamilton: Why should we not have a board for the other organizations?

Herdman: For OTA, the board is vital. It gives this agency enormous contact with Congress. One of the reasons the board works is because we are small. Our requests come in the form of letters.

DiMario: Our work comes directly from the Joint Committee on Printing. Other than constituent letters, we do not receive work from individual Members. The work we receive from outside of Congress is covered by law and requires appropriations and requisitions.

Bowsher: We respond by statute. Our work is planed by issue. These plans are carefully reviewed. We look at job requests and check with the other agencies to see if there are duplications. There are, however, too many requests.

Hamilton: How much of the workload is generated by Members and how much is self-generated?

Bowsher: We can self-initiate audits if it is important, but the vast majority of our work comes from Congress. If Congress was more organized, that would help us. With oversight, things could be kept track of. Holding a hearing every year or every other year would make it easier for us to look at the finances of agencies. We would be able to provide service in a more organized way.

Hamilton: I notice that you are all white males.

Bowsher: Forty three percent of our employees are women and we also have a high percentage of minorities. In the leadership, 23% are women and minorities. We are working to increase these numbers. We are worried, however, that if we decrease in size, we will lose the numbers we have.

DiMario: The majority of our employees are minorities. We have a large number of women employees. We are retraining women employees from clerical jobs to craft jobs. There are fewer minorities and women at the senior level, but we are working on that.

Herdman: We have 15% minorities. Half of our staff are women. At the senior level, 1/3 of our program managers are women. At the top level, 1/2 are women.

Reischauer: Thirty nine percent of our employees are women and 8% are minorities. We are working to increase these levels.

Ross: Five years ago we started a graduate recruit program geared towards bringing in minorities. It was successful for 3 years. Now we have a hiring freeze and can not continue with the program. We hope that the early out with bonuses option will help to open up more senior level positions. We have changed our hiring procedures to bring in more women and minorities at the senior level.

Dreier: All of us recognize the importance of your work. I did not hear any recognition of the fact that there are going to be cuts. There are a lot of options out there. Provide for us some recommendations for reductions.

Ross: We are well aware of what is going to happen. We just hope that the process will take place gradually. A sudden cut will mean laying off large numbers of employees.

Dreier: Please continue this explanation.

Ross: The bill on the floor now cuts us 1%. This comes out to about a 5-6% cut, which is about what we can deal with effectively.

Reischauer: We are painfully aware of the budget problems. We provide the numbers for the cuts. When you are in the cutting mode, our workload increases. We will take our lumps, but it will hurt our ability to provide you with numbers for cuts.

Herdman: We will manage, but as the budget decreases, there will be some diminution in service. We are aware that it is a continuing process. We are downsizing ourselves. We have eliminated management. We are changing the number of divisions, the number of senior people, and the number of programs. We hope to do this gradually with the assistance of our board.

DiMario: We have requested the early out with bonus option. We have mandated a general 25% reduction in supervisors over the next three years. We have a freeze in administrative areas and are not hiring anyone new. We are also working with Congress to set up new procedures.

Bowsher: We are aware that we must do our share. We are worried about the risk of not performing an audit because of cutbacks, and having something blow up. If we can get the Executive Branch to have good accounting, our work can be more efficient. There is atrocious accounting in three of the military branches. There is the risk of losing money because of these bad systems. Over a five year period, we can downsize without destroying our organization. One big rift will destroy us and it will take time to build up again.

Dreier: Director Ross spoke about your responsiveness to Members. If there are any recommendations about how Congress could better work with the support agencies, please tell us them. We need to find a way to bring down expenditures and keep responsiveness.

Hamilton: You are all knowledgeable about Congress. Contact us in any appropriate way about your ideas. We appreciate your testimony. Thank you.



## HEARING SUMMARY, JUNE 17, 1993

Three witnesses: LTG (Ret.) Leonard Wishart III, Representative William M. Thomas, and Representative Thomas Ridge.

LTG (Ret.) Leonard Wishart III, Director of Non-Legislative and Financial Services

Stated that the position of the Director was established by H.Res. 423, the House Administration Reform Resolution of 1992. The resolution amended the rules of the House to provide for certain changes in the administrative operations of the House by creating the position of the Director and the Inspector General, and specifying that certain functions and entities would be transferred to the Director from other offices of the House.

Since the beginning of the year, I've been involved in organizing the office of the Director of Non-Legislative and Financial Services, planning and coordinating the transfer of activities, and then managing those activities which have been transferred. Among my first actions was to prepare an organizational structure for the office of the Director and a proposed schedule for the transfer of activities. The schedule is on track and should provide for the transfer of all activities listed in H.Res. 423 by the start of the next fiscal year, October 1993.

The House Post Office transferred on January 3, 1993. On February 1, the Finance Office transferred from the Clerk, and on April 1, three office support activities transferred from the Clerk. These were the Office Furnishings, the Office Supply Service, and Office Systems Management. These last three were grouped together, and now report to the Director of Office Support Operations. Several personal service activities transferred on May 1. These included the barber shop and hair salon, the child care center, and placement office. Then on June 1, the Committee transferred the House Restaurant System to the Director.

H.Res. 423 established a bipartisan Subcommittee on Administrative Oversight within the Committee on House Administration to provide oversight of the Clerk, the Sergeant at Arms, Doorkeeper, the Director, and the Inspector General. The responsibilities of the Director are subject to the oversight of this Committee, which has the authority to provide for transfer of activities and entities to the Director.

The organization of the office of the Director continues to move forward, and I believe the schedule established in January can still be achieved by the end of September. The key elements will be the statutory changes which will provide for the statutory authority for the exercise of the responsibilities of the Director. Given the cooperation of the leadership of the House, the Subcommittee on Administrative Oversight to which I report, and the Members, I believe this new arrangement will succeed.



### Questions and Answers

Hamilton: You describe your work as managing the non-legislative functions that have been transferred to you. Are there non-legislative functions that have not yet been transferred?

Wishart: Yes, there are functions that have not yet been transferred. I have several in the initial schedule that were to be transferred. The decision of whether or not they will transfer is up to the Subcommittee.

Hamilton: What are some of the activities?

Wishart: The Office of Telecommunications, for one, is an activity that has not yet transferred. My discussion with the Ranking Minority Member indicated that there are some concerns with regard to protection of information and the debate clause in the Constitution, with regard to Members' ability to request that information.

Hamilton: Are there other non-legislative functions not yet transferred?

Wishart: Yes. The House Information Systems was listed in the original resolution. I proposed it transfer in September. I have no reason to believe there is any difficulty with that, other than that the debate clause will intervene. Also, there is the Pay and Travel Section which now belongs to the Sergeant at Arms. We're looking for that to transfer around August.

Hamilton: And legislative services do not come to you?

Wishart: That is correct.

Hamilton: What are the legislative services?

Wishart: There are clearly the reporters who work for the Clerk, and report the proceedings of the committees and work on the floor. The functions under the Doorkeeper, with regard to his constitutional and historical responsibilities. None of these would fall under my jurisdiction. Those things which go with the recording and printing of the legislation itself are not included in items to be transferred.

Hamilton: The Legislative Service Organizations, they are not included in items to be transferred?

Wishart: I would not expect them to be, but I understand the responsibility of overseeing their financial activities will be transferred over to the Finance Office, which comes under my supervision.

Hamilton: How many people do you have on your staff?

Wishart: My immediate staff has three other people. I am hiring two more principle staff members, a Personnel Manager, and a Resource Manager Deputy Director.

Hamilton: Do you believe we are moving toward a situation in the House where patronage will be a thing of the past?

Wishart: I can only speak for the office of the Director, where patronage does not operate.

Hamilton: Does that mean all of the functions that report to you are non-patronage positions?

Wishart: The people that occupy some of them, of course, were appointed under the patronage system. They are competent people. It is true that some people were appointed to perform jobs because patronage existed, and were not qualified to do those jobs. They are doing other jobs; I'm getting that corrected.

Hamilton: These jobs you've talked about, do they all have numerous employees?

Wishart: Yes, that's correct.

Hamilton: And in the future, will you be the one hiring these employees?

Wishart: The short answer is yes. I have been responsible for the selection of the people below me, plus one level below. I've insisted on a wider search for the candidates and the selection based on competency and ability to pick the best person.

Hamilton: Are you involved in the business of auditing accounts of the House?

Wishart: I will do the managerial types of audits, not a GAO type audit. I will certainly be involved with my managers on the status of their accounts.

Hamilton: Do you have an investigative staff to research any kind of improper financial activities in the House Restaurant or other businesses you are overseeing?

Wishart: I do not have an investigative staff. I would have to rely on either the GAO or other investigative staffs, or would have to put something together.

Hamilton: How long have you been in office now?

Wishart: Since December 28, 1992.

Hamilton: Do you have any recommendations for the Committee about the manner in which your office is set up? Are there ways you see they could improve it, or any particular difficulties that could be dealt with?

Wishart: I see friction as we work our way through. I don't think any of it rises to the level that I'm prepared to say we could have organized better. I'm not sure if we could foresee all the kinds of things that would occur. My immediate concern is the changes in the statutes which, I think, need to occur this summer before the next fiscal year. As it is now, I have a good deal of responsibility but don't have the necessary authority. I am not the Contracting Officer for the House, although I have responsibilities in contracting for the House.

Hamilton: I'm not sure of the proper channel for all of this. My question may be better directed towards the people to whom you report in the House.

Wishart: Specifically, the Subcommittee on Administrative Oversight.

Hamilton: Do you have anything to do with the Senate at all?

Wishart: I do not. The Office of Telecommunications has not yet transferred. They, of course, have an interface through the telephone exchange, with their joint organization through the Senate, so if it transfers to me, I will have some interface there. I have met with the Secretary of the Senate and with others. I have gone over and visited their restaurant system. I wanted to get to know the individuals and to hear information to learn a little better about how they operate.

Hamilton: Do you see any great efficiencies to be achieved by combining these administrative functions of the House and the Senate?

Wishart: In five months, it's hard for me to be certain of what might be useful. I think we should first determine what we want to accomplish, if indeed this is to be an appropriate decision, and to understand what the differences are and whether or not they should remain different. Obviously there could be efficiencies by combining the activities of both sides, but that requires a certain acceptance of commonalities of procedures that may or may not be desirable or effective. I would say that on the face of it all, post offices offer an opportunity to be looked at, because I don't see how those procedures are terribly different.

Hamilton: The Secretary of the Senate is developing the Financial Management System that will standardize the vouchers that committees and personal offices use, and will link the committees and personal offices with the dispersing office. This which will enable the dispersing office to take voucher information and generate a check in creating and entering data into the Secretary of the Senate's report without reentering any data. Currently, they enter the information twice, once on the check and once on their Report of the Secretary of the Senate. The Secretary of the Senate has estimated that this will save nearly \$500,000 per year by standardizing the way information is entered and transferred to the dispersing office. Are you aware of that?

Wishart: I am aware that is ongoing. We have a similar practice in the House. The Office of Finance had initiated that before I came in. I am not certain of the

specifics, but I think the system of the House is exploring and moving in a different direction than that of the Senate.

Hamilton: How is the Clerk's Report currently produced? Is data reentered?

Wishart: I can't answer that specifically.

Dreier: Would you share with our Committee what has been the greatest surprise, disappointment, or any thoughts that you might have about taking on a completely new position, the likes of which this institution has never seen before? You have worked here now for five months, would you share with us some of your thoughts?

Wishart: I think I was surprised that some decisions take as long as they do.

Dreier: Can you give any examples?

Wishart: I think just the process of going forward with the transfer of certain activities. Once they had been laid out I thought they would occur. I have a request that has been in front of the Committee for a couple of months now that hasn't been acted on. They are simple things, not earth-shattering ones, but they seem to take awhile, and they seem to me to be the kind of things that ought not to encompass a great deal of thought. Having said that, I would also like to comment that things have gone smoother than I anticipated. I expected more of a mine field to be negotiated between both sides. Generally, I feel that there has been an approach that has been of agreement between the leaders of both parties.

Dreier: Are there certain items that you would like to see brought under your jurisdiction?

Wishart: To be perfectly honest, I took this job in small bites. The first step when I laid down the schedule was to take those items and those entities which were drawn out in the H.Res. 423, and make out a schedule for an orderly transfer. I told the leaders of both parties that I would not make those recommendations until I had gotten through this first effort of organizing this first schedule of transfer, or at least those items listed for transfer. It was listed in an article last week about the Majority and Minority Printer shops transferring. I don't know whether or not, in fact, they will transfer. I don't think I should say as Director whether or not they should. If they do, I know I will have questions about what exactly I should do with them.

Dreier: I noticed that the Restaurant System is running a profit now, except for the specific Members' dining rooms. I wonder what thoughts you might have about that.

Wishart: I've looked over the numbers. I was asked by a reporter to comment about them, and I told him that I wasn't prepared myself to stand behind the



numbers until I had a chance to go through them. Presuming they're accurate, you're right. The dining room is a much less profitable entity than any other faction of the restaurant. When you look at the financial reports, it is difficult for that to ever be profitable when the labor costs are approximately two and a half times what the gross sales are. When in fact sales go up in the dining room, the loss gets greater, so you don't make money by doing more business there.

Dreier: Are you particularly sensitive about the Member dining room, when it comes to the issue of recommending someone for a job?

Wishart: I'm sensitive to that as far as I'm sensitive to anything else that is under my jurisdiction. I guess that you're getting at the fact that the Members have a certain feeling about how the dining room ought to be run.

Dreier: Should that transcend other items with regard to the dining room?

Wishart: I don't think it impacts on me personally any more so than anyone else, at least in terms of the recommendation I would make. The decisions on policy are not mine to make, and I realize that. The execution of that policy is mine, and whenever I find that it is inefficient, less than effective, and not cost effective, I definitely will make recommendations to the Subcommittee on Administrative Oversight.

Dunn: Could you describe to us the progress of the dining room situation itself, the decision that was made, where it stands now, and what your responsibilities will be in relation to the dining room?

Wishart: Prior to June 1, I did not have all the details. I was informed of some of the activities that were ongoing in the restaurant and the financial status of it. Subsequent to that, I have gotten much more of the details, and have spent about 40% of my time on this issue. I have said to the employees and managers that I will review the system as a whole. One of the options is contracting out. Whatever we do, it must be something that a potential contractor would find advantageous. We've got to be able to operate in a manner in which he/she could be reasonably certain that a profit can be made. I haven't yet reached a point where I can put together a request for a proposal. I would also point out that the Subcommittee gave me the charter to govern the policies and participate on the development of those policies. Until I have that policy, I think I will continue to operate the restaurant in the same manner.

Dunn: Do you feel that an audit is necessary?

Wishart: I have discussed with the GAO the issue of an audit. Their concern is that they don't feel they have a baseline, with which they could do an audit specifically with regard to inventory. I am working with that to determine what I need to do. Specifically it has to do with the value of the inventory; apparently, we don't have the value assigned to the items of inventory. I have seen the 1986 inventory, but have not seen the one that was drawn in 1991 and that I understand



was transferred to the Committee. So I don't know the degree with which I can work from that to establish some value. If I could do that, I think they could do a successful audit against the status of 1991, and give me some idea of where we stand.

Representative William M. Thomas, Ranking Member, Committee on House Administration

Observed that the House went through a very difficult period over the so-called House bank, Sergeant at Arms dispersing office, and the Post Office. Those two structures are best described as vestigial remains from the past. To those of us who had repeatedly tried to deal on a cooperative basis between Republicans and Democrats, we began to see problems. First, that the policy was not being made by the elected representatives or even the staff of the elected representatives. It was rather being made by an archaic structure of officers of the House, which itself had gotten out of hand.

I was not particularly elated at the passing of this resolution because some areas were clarified that should go under the Director, others were not. This was largely because of oversight or failure to understand the way in which the institution operates. We have been working toward adoption of a change to the rules of the Committee on House Administration which would do three things: 1) broaden the definition of oversight, 2) transfer to the Subcommittee on Administrative Oversight the full Committee chair's authority to refer matters pertaining to the Director, and 3) allow the Subcommittee to act on behalf of the full Committee with regard to the oversight of non-legislative functions and entities.

There was the desire to utilize the Director's office as a device to shift focus from the partisan officers and, perhaps, the failures of everyone to carry out activities in the most constructive way. But there was reluctance to create a structure that was truly shared. In the last Congress, there was a provision in the Rules of the House, passed by the Democratic Congress, which said that this bipartisan oversight subcommittee, equally composed of Democrats and Republicans, was to make policy. If a decision could not be reached by this Subcommittee, it would be decided in a partisan manner. That was obviously very troublesome to us who had decided that there ought not to be a Democrat or Republican way to run the restaurant or the Post Office or a number of other services. Bipartisan oversight of the operation of the non-legislative services of the House means shared control and shared responsibility.

The rules now say it is an equally divided, nonpartisan oversight subcommittee. If Democrats and Republicans can't work out a majority position, the issue dies. As in all parliamentary bodies, a tie vote loses. Now we must realize that Democrats and Republicans must work together, because if votes are cast in opposition for the sake of opposing, or merely because a majority of the votes are held, nothing will happen.

Several changes have been made through the cooperation of both parties to improve the administrative operations of the House. For example, the changes made in the telecommunications system have saved an estimated \$26 million. Member "tabs" at the House Restaurant have been replaced with a pay-as-you-go system. Members are also able through a dramatic House reform to keep better track of their official allowances.

### Questions and Answers

Dreier: Do you share Chairman Rose's concern about oversight as a problem in the Capitol Police?

Thomas: I do. It's one of the ongoing problems we have. As a legislative body, Congress has priorities as far as what we need to deal with. It is legislation shaping laws that influence the lives of Americans. Clearly the Committee on House Administration does a lot that brings about the ability of the House to deal with that issue. One of its responsibilities is overseeing a structure that is kin to a city or county.

We have a number of services that need to be provided, and one of them is the police. My concern is that we have a structure that has developed over time, which is very much akin to the problems that surfaced with the Sergeant at Arms and the Post Office. Those who are charged with the policy are not as on top of the proceedings as they should be, to the extent that there are people who believe that there are a number of decisions that should be left to the "professionals." I believe that is the recipe for disaster. Ultimately, we are left with the responsibility of these decisions made by these "professionals," and therefore the ultimate policy decision should be in our hands. To people who understand what the Capitol Police do, it is essential that they be overseen by the elected Members. I would strongly endorse that the Chair suggest that we change the structure of the police force to make sure that the oversight is tied more closely to the elected Representatives.

Dreier: I understand that you have recently completed a study of joint committees. Could you share some of your findings with us?

Thomas: Yes, one of the advantages of being on House Administration is that the jurisdiction is far-reaching and allows you to examine a great number of areas. But when you come to a committee which deals with finances of a significant portion of the funding of every committee except for the Budget and Appropriations Committees, you begin to look at the broader questions in a slightly different way. Our job is to make sure that committees get funded adequately. If you see shifting jurisdictional battles or the growing consumption of money by a committee without a legislative function, this may be a proper role for a period of time; but how long can you let that go on with a given amount of money? That led to the investigation of the joint committees. I personally believe and offered a motion in front of the Committee on House Administration to investigate the joint committees. If we cannot justify their existence, we ought not to continue it. The Minority Leader

supports my analysis. We need to be vigilant in examining structures of relationships and require them to justify their existence.

Dunn: Do you see a way in which the Committee on House Administration could be folded into the committee structure, either subdivided or made a subcommittee?

Thomas: If we were able to produce a structure which had six or eight subcommittees over a brief time, you would find yourself spinning off into various other committees which were created for a very good reason at the time they were formed and it would be difficult to pull them back together. I support a structure which lays out the clear and fundamental jobs that need to be done. I would prefer a flexible structure so that you could create certain committees to deal with problem areas.

Lugar: Is there some merit to the logic that if we start from scratch, we've literally employed someone to be the manager of the premises and the activities with oversight conducted by a revolving group of Senators and Representatives?

Thomas: I think it's easier to go by that model now than it was two or three years ago, because you only had to go back five years and the model that was followed was one hundred years old. The first and fundamental question the American people would ask is, "Who's in charge?" Creating a new model was a real challenge to us a few years ago. If we set up a structure in which the fundamental policy decisions are made by the elected structure, then yes, the professional structure is one that makes a lot of sense. One of the positive aspects of creating this office is now going into a number of areas. I believe you have to have a structure that is professionally run and professionally staffed, carrying out the functions of this institution which are not essential to the partisan aspects of this institution.

Lugar: Is there any value to the majority in being responsible for building the grounds, the maintenance, the paid functions, the clerical functions? Can you describe the arguments of the parties as to why people feel that these functions are vital to the running of Congress?

Thomas: It's easier for someone who has no power to examine the various structures and talk about why you need power. It is a question of power. We've created a dispersal of power over the years, and there are power pockets and power centers. They are not necessarily run in a positive way, but they are run in a personal way. There are ways to elevate them to a level of discussion, and to exorcise them when necessary. There are certain prerequisites of power owed to the party in majority. Those I would support as belonging to certain offices. But there is so much that has developed over the years that could be peeled away. We must create a sense of trust and responsibility, and we have that on our side now with this new Director.



### Representative Thomas Ridge

There are no committees which I feel have the proper level of oversight. As individuals within the system we don't have control over particular situations, but we're all individually accountable when something goes wrong. I've been a long-time proponent of creating within the Congress the office of Inspector General. Something similar already exists in 61 departments and agencies in the Executive Branch.

We've discovered our inability to find the right mechanism to oversee the conduct of this institution. I believe that whatever structure we devise will need to preserve the legitimate political prerogatives of the majority. I do think that in a political sense we have a shared responsibility to govern and oversee the operations of this body. I don't think we've done a very good job, and I don't see how any individual, committee, or group of committees could do the job for us.

Last year, an IG or representative from one of their offices testified at congressional hearings 179 times. If we vest so much credibility and authority in other IGs, there is no reason Congress should not have the same. We should not be immune to the same kind of scrutiny.

It would be helpful for us, with our excessive budget, to create a similar entity that would help oversee what we do for which we are held accountable, and at the same time maintain our political prerogatives. We need an office that will help restore the credibility which has corroded over the years, give us some feeling of security, and more importantly, give those we represent a standard of accountability.

### Questions and Answers

Hamilton: I gather that you don't think it's constructive for the IG in the Executive Branch to have such a level of independence and the IG in the House to not?

Ridge: Yes, that's correct. The only difference between the IG in the House of Representatives and the IG in the Executive Branch is the title and some of the responsibilities.

Hamilton: How do we accomplish getting the independence that you want, and how would you envision the IG being appointed?

Ridge: I could anticipate the bipartisan leadership of both chambers identifying an individual who possesses professional experience and expertise, and who is given seven or ten year terms.

Hamilton: This person would have the power to look into all aspects of operations of Congress?

Ridge: There may be some legitimate political prerogatives. We don't have anyone helping us, overseeing the Congress, who has independent auditing authority and other capabilities which would help with the functions of Congress.

Spratt: How would the IG's activities be initiated? Would they come about from a complaint, or external force?

Ridge: Conceivably, a Member could initiate the action. Employees could initiate the action, and/or that man or woman who has responsibility to take a look at policies and procedures that normally were undertaken by other entities.

Spratt: This power has often been misused. There are a number of complaints that often tie up elected officials, and involve large legal expenses. It is probably wise to set up some guidelines as to how this activity could commence and how the public is to be served, and at the same time not be a further instrument for fighting election campaigns within the IG's office.

Ridge: This is a legitimate concern. Precaution should be taken to avoid that. As I see the responsibility of the IG, it goes far beyond the conduct of individual Members. There are fairly rigid guidelines set up by the Senate and the House themselves, and the task of the IG is to make sure there is compliance with those guidelines. The focus, however, is not just on the Members' conduct. In large measure, that is the least of the concerns. Their use of funds is important, however small a fraction of a \$2 billion budget.



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## Congress of the United States

JOINT COMMITTEE ON  
 THE ORGANIZATION OF CONGRESS  
 ROOM 1750 FORD HOUSE OFFICE BUILDING

Washington, DC 20515-6775

May 19, 1993

TO : Joint Committee on the Organization of Congress  
 SUBJECT : Staffing and Administrative Reform Options

Staffing in the legislative branch has grown substantially since the 1960's. Congress sought in the 1970's to increase the policy expertise available in its committees, its support agencies, and to all Members. Although Congress still is criticized for its "burgeoning bureaucracy," congressional staff growth virtually disappeared during the 1980's.

Nevertheless, concerns about the cost of government at all levels continue to stimulate proposals to cut back on congressional staffs (staff salaries and benefits constitute the largest single component of the congressional budget), and to increase managerial professionalism and efficiency in legislative branch operations. This memorandum provides background information on the formal sources of congressional staffing and reviews proposals to alter the number, duties, work environment and management of congressional staffs in various legislative branch entities.

A range of options for scaling back various types of staff resources (personal, committee, administrative, and support agency) and for reorganization of various activities performed by legislative branch entities.

## HISTORY OF STAFFING DEVELOPMENT

The Congress has always employed staff. From a basic administrative structure dating to the Continental Congress, the Congress expanded the number, type and duties of administrative staff employed by officers of the House and Senate. In the 19th Century, staff employment authority was granted first on a sessional basis and later on a permanent basis to committees of the two chambers. But, it was not until the 1880's that all Representatives and Senators were given the authority to employ a staff member. In the 20th Century, Congress established non-partisan research agencies to assist Members and committees, and still more recently, the emergence of high-technology research and service tools required the employment of increasingly specialized technical and administrative support staff.

The period of most rapid growth in congressional staffing occurred from roughly the end of World War II through the late 1970's. During this period, the Congress consciously strove to expand the support, research, and analytical capacities of its personal, committee, and administrative staffs and non-partisan agencies. Over the past decade, congressional staff growth have virtually ended, and at various periods has actually declined.

#### Personal Staffs

Each House Member receives an annual clerk hire allowance of roughly \$558,000 with which to employ not more than 18 staff full-time. In addition, four other positions may be filled by part-time employees, interns, shared employees, or temporary employees. Current statistics show roughly 7,000 personal staff in the House, or about 16 full and part-time staff for each office.

Senate staff funds are apportioned according to State population, with the Senators receiving from \$1 to \$2 million each, depending on State population, for 'administrative and clerical assistance,' plus roughly \$300,000 each in a "legislative assistance" allowance. Overall, there are about 4,000, or, on average, forty staff per office, with some small State Senators employing thirty or fewer staff, while Senators from the largest States employ upwards of seventy.

#### Subsidized Staff: Interns, Fellows, and Detailees

Not normally reflected in staff statistics are those House and Senate employees subsidized by other entities. The most prevalent are college student interns; many question their utility to congressional offices, but they do free up permanent staff from some more mundane aspects of daily congressional work. Additionally, professional societies (such as the American Political Science Association and the American Association for the Advancement of Science) sponsor dozens of mid-career professionals for six-month to one-year assignments in the House and Senate. Senior executive branch staff may participate in similar programs. Precise statistics are not available, but estimates run as high as 250 sponsored fellows working at any one time on Capitol Hill for Members and committees. Private firms may also support "sabbatical leaves" for an unknown number of senior staff to work in Congress. No reliable data exists to determine the full extent of such staff provided at no cost to the Congress.

#### Committee Staffing

The questions of the necessary number and type of committee staffs to employ, and of their linkages to the political parties in the House and Senate since the basic modern committee staffing framework was adopted in the 1946 Legislative Reorganization Act.

*Funding Authorities in House and Senate*

House committees now employ nearly twice as many staff as Senate committees. Studies of workload and other variables might be useful in determining the causes behind this staffing variation. Other factors contributing to higher numbers of staff could include: the relatively greater autonomy of House subcommittees compared with Senate subcommittees; more dispersed committee staff hiring authority among House panels; and the historic tendency for most legislation to originate in the House. Committees in both chambers can hire consultants; firm data could be assembled to determine whether one chamber makes greater use of consultants, or whether wider use of consultants could reduce congressional operations costs.

House committees obtain operating funds through three separate processes: the Appropriations and Budget Committees are free to set their own staffing levels, subject to appropriations provided in the annual Legislative Branch Appropriations bill; all other standing committees (and the Permanent Select Committee on Intelligence) are provided a basic grant of 30 'statutory' staff; additional staffing and operating funds are provided by annual 'investigative' funding resolutions which provide all operating funds for any temporary select committees.

Since 1981, all Senate committee operating funds (for both standing and select committees) are provided in one biennial funding resolution.

The operating funds for joint committees are provided in the Legislative Branch Appropriations Act, based upon requests submitted to the House and Senate Legislative Branch Appropriations Subcommittees. The House and Senate will generally divide the costs of joint committee operations between each chamber's portion of the appropriations bill.

*Minority Committee Staff*

House and Senate rules differ in this regard. In the Senate, since 1981, at least one-third of the staff positions and operating funds of Senate standing and select committees must be made available to the committee minority. In determining the number of staff positions controlled by the majority and minority on each committee, the chairman and ranking member of each panel may jointly agree that certain staff functions are performed on a "non-partisan" basis, and that these positions and salary costs be removed from the funds and positions to be divided between the parties.

In the House, one-third of the statutory committee staff provided to standing committees is controlled by the minority. In addition, the ranking minority member of each subcommittee (up to a maximum of six subcommittees per committee) is guaranteed the authority to appoint one staff member to be paid from committee investigative funds. Thus, on standing committees the minority is

effectively guaranteed sixteen staff. However, a rule of the House Democratic Caucus prohibits a Democratic committee chairman from agreeing to a committee investigative budget that would give the minority control of more than twenty percent of the investigative staff positions on any committee.

#### *Associate Committee Staff*

Four committees in the House provide all committee members with the authority to hire staff paid from committee funds. The Appropriations Committee provides two such staff positions for each committee member; the Budget Committee and Rules Committee each provide one staff position to each committee member; and the Ways and Means Committee has begun (through House regulations permitting staff to be paid from more than one committee payroll) to allow a salary supplement for a designated personal staff employee of a committee member to be paid from committee funds.

#### *Administrative Staff*

Staff positions under the administrative officers of the House and Senate are generally authorized by House or Senate resolution, and at a later date are permanently authorized by including appropriate language in the annual Legislative Branch Appropriations Act. As the amount of services provided to Representatives and Senators has grown, so have the numbers of staff employed by the Clerk, Doorkeeper, and Sergeant at Arms of the House and the Secretary and Sergeant at Arms of the Senate.

Consolidation and coordination of functions and services among the officers of the House and Senate remains a contentious issue. In the 102d Congress, the House established the post of Director of Non-Legislative and Financial Services. The Director assumed control of House postal operations after the Office of the Postmaster was abolished. The administrative reform resolution establishing the Director's post provides for the transfer of additional functions to the Director upon the recommendation of the House Administration Committee. Many non-legislative functions have yet to be transferred to the Director's office, and the House has not yet appointed the Inspector General, a post created in the administrative reform resolution.

Regardless of initial efforts at consolidating House administrative services, there is concern that separate House and Senate entities providing essentially the same products or services may be needless duplicative. Rep. G.V. "Sonny" Montgomery, in testimony before the Joint Committee, questioned whether there could be any justification for continuing two congressional page schools, two postal operations, two computer centers, two restaurant systems, and two separately controlled details of the Capitol Police.



### Legislative Service Organizations (LSO's)

Congressional informal groups have become a significant force on Capitol Hill since the formation of the first modern group or caucus in the 1950's (the Democratic Study Group; historical research shows informal congressional groups dating to the first Congress). Regulations adopted by the House based upon the recommendations of the House Commission on Administrative Review (1977) established a group of larger, more institutionalized informal groups as Legislative Service Organizations (LSO's).

The groups designated as LSO's were able to accept transferred clerk-hire and expense allowance funds from House Members and obtain space in House buildings, in return for refusing to accept private sector funding. However, many LSO's are linked to tax-advantaged non-profit institutes which can accept private funds. Regulations in the Senate prohibit providing separate office space and facilities to Senate-only groups, but many Senators belong to and pay dues to bicameral groups operating under House regulations. Provisions in the Legislative Branch Appropriations Act for FY1993 direct the General Accounting Office, in consultation with the House Administration Committee, to establish new accounting standards and reporting requirements for LSO's. The House has not designated any new LSO's since 1983.

### Congressional Support Agencies

The four non-partisan congressional support agencies are products of the 20th Century. The Congressional Research Service dates from 1917; the General Accounting Office from 1921; the Office of Technology Assessment from 1972; and the Congressional Budget Office from 1974.

Although the formal mandates of each organization have changed over the years (particular as a result of major congressional reorganizations), each has specific legal authorization to provide the Congress with particular research and reference support. The funding for and the staff sizes of each have been relatively stable or have declined over the past decade after a period of substantial growth, particularly for the Congressional Research Service and the policy evaluation sectors of the General Accounting Office, both of which resulted from changed legal mandates provided in the 1970 Legislative Reorganization Act.

In recent years, concerns have been voiced about overlap and duplication of services among the support agencies, the absence of periodic oversight and reauthorization of these agencies, occasional complaints about partisanship, and making more assistance available to majority rather than minority party clients. Support agencies have expressed doubts about their ability to maintain current services in the face of stable or declining budgets; some have asked for authority to end certain types of services to congressional clients or to otherwise manage their workload more aggressively.



There has also been concern about career opportunities for women and ethnic minorities in some of these units.

#### Joint Service Entities

The two primary joint service entities of the Congress are the operations of the Architect of the Capitol and of the Government Printing Office. Both are financed and staffed by moneys provided in the Legislative Branch Appropriations Act, although both direct a substantial component of their operations to providing services to the executive and judicial branches.

The Architect of the Capitol is a position which dates to the establishment of Washington as the new National Capital. The Architect is now responsible for a variety of administrative and managerial functions over building construction and renovation involving the Capitol, the House and Senate office buildings, the Library of Congress complex, and the Supreme Court and the administrative offices of the courts. The current architect serves (like his predecessors) at the pleasure of the President; the next architect to be nominated, subject to Senate confirmation, will serve a maximum ten-year term. The Architect is also a member of the Capitol Police Board (along with the House and Senate Sergeants at Arms) which supervises the operations of the House and Senate details of the Capitol Police and which has authority to appoint the chief of the Capitol Police.

The management of the Government Printing Office (GPO) is the responsibility of the Joint Committee on Printing (JCP), the members of which are drawn exclusively from the House Administration Committee and the Senate Committee on Rules and Administration. The Government Printing Office not only is responsible for the printing and binding of congressional documents (including hearings, reports, and the *Congressional Record*), but it is also the primary official printer for the executive branch. The responsibilities of the JCP include enforcing regulations for congressional printing and binding, and for the preparation of executive branch documents and reports. A substantial portion of executive printing is now done under contract to the private sector, and the JCP must approve all outside contracting of executive branch printing.

#### PROPOSALS IN AREA

During management investigations conducted in the House during the 102d Congress, more than two hundred separate measures were introduced in the House and Senate to change some or all parts of congressional staffing practices.

A number of major proposals have been offered in the 103d Congress. Speaker Foley and Majority Leader Mitchell proposed that congressional staffing levels could be cut by four percent (and operating costs by 14%). The House Democratic Freshman Task Force on

Congressional Reform proposed reducing the staffing levels of the legislative branch 25 percent, phased in over four years and exempting from staff reductions those who perform constituency service work. The House Republican Freshman Task Force proposed an immediate 25% reduction in legislative operating costs. Earlier decisions by the House and Senate on the current fiscal year legislative branch appropriations and committee funding resolutions cut committee operating funds by about five percent, and reduced overall legislative appropriations by about three percent.

At earlier hearings of the joint committee, Rep. Charles Taylor (R., SC) proposed an immediate 25 percent reduction in congressional staff, and in particular suggested the consolidation and overall reduction in the number of legal advisors to the Congress, both in House and Senate administrative offices, in the support agencies, and in congressional committees. More recently in testimony, Rep. G.V. Sonny Montgomery (D., AL) questioned why there was a need for duplicately staffed, separate House and Senate in such areas as: computer centers, page schools, police operations, document rooms, folding rooms, and food service facilities.

#### PROBLEMS AND ISSUES

The proposals to reduce congressional staff presume that Congress is overstaffed. That Congress has substantial staffing resources cannot be denied. However, the belief that Congress is overstaffed can be challenged. Some aspects of congressional operations may have more than sufficient staff, while others may be underserved. Across-the-board reductions in staffing impose substantial burdens on those parts of Congress where staffing cuts or freezes have already been imposed. Carefully considered reductions based on operational needs may be more defensible in a managerial sense, but may be more politically difficult to achieve.

For twenty years there was general support for increased staffing resources. Now, opinions are more clearly divided. The issue is further complicated by called for economy in government generally, and reductions in congressional operating costs to set an example of sacrifice.

Opponents of the general levels of congressional staff claim that congressional staffs interfere with the legislative process. These critics claim that staff generate additional marginal work for Members, requiring Members to rely more upon these same staffs. Staff act as insulators for Members, frequently act as surrogates for their bosses, and slow down the legislative process because decisions reached by staff must still be ratified by elected Members.

Many citizens have conflicting views about the congressional staffs and related facilities. On the one hand, they appreciate

quick and efficient constituent service and grants work, but they otherwise are critical of what they view as a "bloated bureaucracy" (journalist Irwin Gwertzog's term) in the Congress.

There are historic partisan issues in staffing. The proportion of committee staff controllable by the minority is a long-standing controversy; the Senate appears to have settled this issue to the satisfaction of both the majority and minority. There is also the issue of patronage employment among officers and administrative staff of the House and Senate.

Regardless of the staffing levels of the Congress, professionalism and the development of staff skills have been issues of concern to many. Are the salaries, benefits, and working conditions of congressional staff adequate to retain a skilled workforce? Many argue that salary differentials, working hours, and other benefits are better in executive branch and private sector positions, thus causing many Hill employees to leave. Others claim that Congress cannot politically afford the cost of comparable benefits. There are related issues of providing increased in-house training programs (or tuition reimbursement programs) to increase the professional skills of personal, committee, and administrative staff (such benefits are fairly routine among congressional support agencies and the executive).

The support agencies present different types of management and coordination efforts. The responsible House and Senate committees maintain that they have achieved a reasonable degree of supervision of these agencies. Others are concerned about the timeliness of research products from these agencies; imprecise consultation across support agency lines; the use of support agency staff by committees in arguably inappropriate ways; fragmented oversight over the agencies, and their exemption from periodic reauthorization; and the employment equity issues affecting career staff in the agencies.

Controversy in the 102d Congress over House management leads some to suggest that unessential services be abandoned by the House and Senate, and that functions not necessary to the Congress be privatized or transferred to the executive branch. Whether such services are privatized or transferred, or kept within the Congress, is an issue itself; if kept within the Congress, there is a separate issue of appropriate and efficient congressional management over such operations.



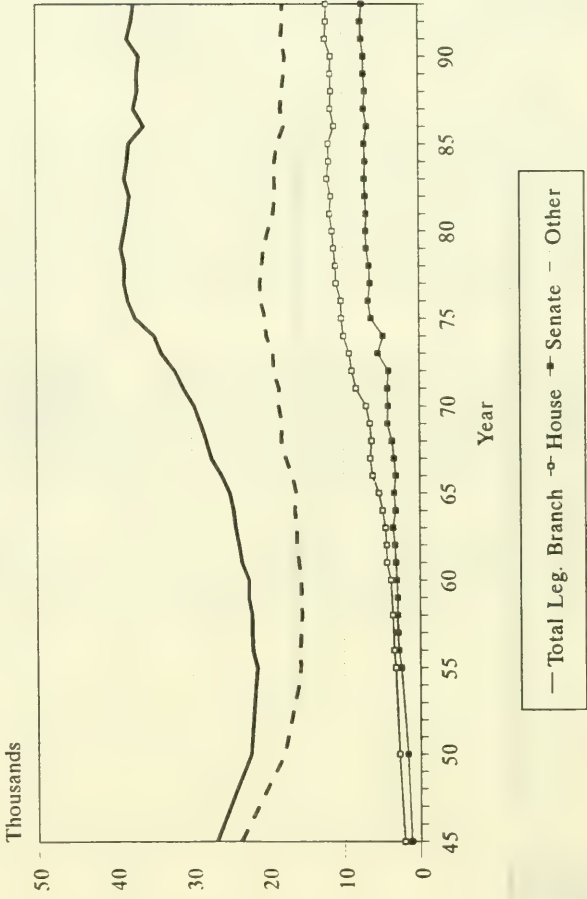
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LEGISLATIVE BRANCH EMPLOYMENT: SELECTED YEARS (1945-1993)

John Pontius  
Paul Rundquist  
Paul Dwyer  
James Saturno  
Specialists in American National Government  
and  
Sandy Streeter  
Lorraine Tong  
Analysts in American National Government  
Government Division  
May 12, 1993

# Graph 1: Legislative Branch Employment

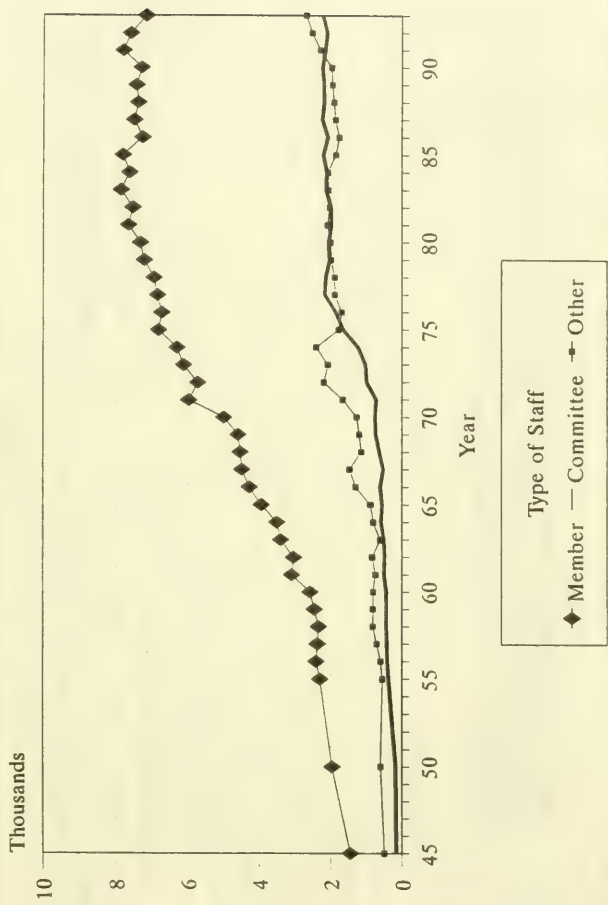
Selected Years, 1945-1993  
Including House, Senate, and Other Legislative Branch Employment



Prepared by CRS from OPM and agency data  
Other includes AOC, CBO, GAO, GPO, LOC, OTA  
Data not available for all years

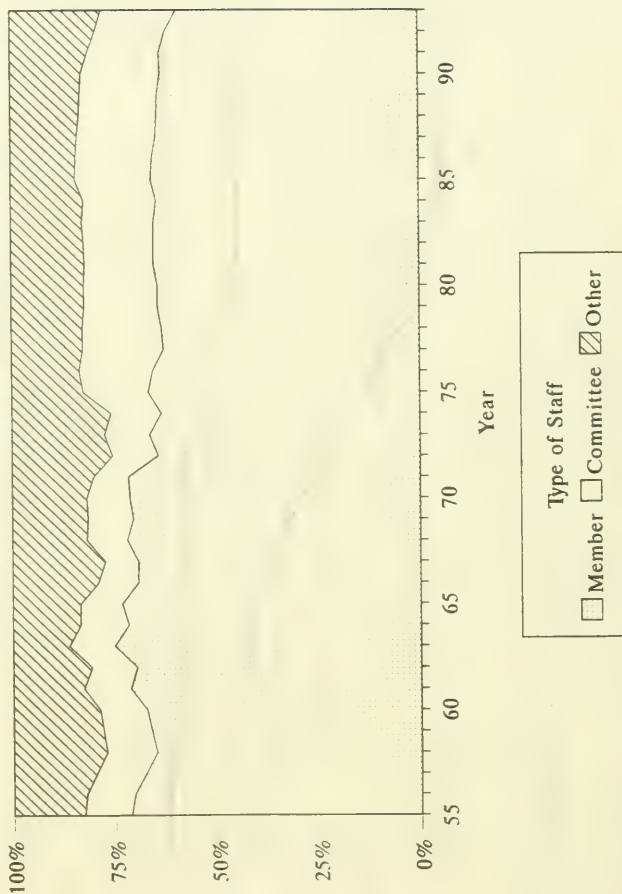


Graph 2. House of Representatives Employment, By Type  
Selected Years, 1945-1993



Prepared by CRS from Clerk of the House data  
Data not available for 1946-1949, 1951-1954  
Other staff includes House Leadership, House Officers, Capitol Police, etc.

Graph 3. Percent Composition of House Employees  
1955-1993



Prepared by CRS from Clerk of the House data  
Other staff includes Leadership, House Officers, Capitol Police, etc.



TABLE 1. Legislative Branch Employment: Selected Years (1946-1993)<sup>1</sup>

	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983
<b>Legislative Branch, Total<sup>2</sup></b>	<b>34,816</b>	<b>36,884</b>	<b>37,809</b>	<b>38,269</b>	<b>38,198</b>	<b>38,661</b>	<b>38,263</b>	<b>37,856</b>	<b>37,669</b>	<b>38,200</b>
Congress-Subtotal	14,894	16,800	17,001	17,337	17,660	18,189	18,401	18,874	18,824	19,225
U.S. Senate <sup>4</sup>	4,743	6,351	6,716	6,424	6,664	6,967	6,996	6,940	7,060	7,161
U.S. House of Representatives <sup>6</sup>	9,951	10,249	10,285	10,913	10,996	11,242	11,406	11,734	11,664	12,074
Personal staff	6,313	6,827	6,738	6,869	6,952	7,224	7,329	7,652	7,640	7,861
Committee staff	1,226	1,642	1,659	2,169	2,143	2,034	2,067	1,987	1,989	2,133
Other staff <sup>7</sup>	2,413	1,780	1,688	1,866	1,891	1,984	2,010	2,096	2,036	2,080
Architect of Capitol <sup>8</sup>	1,903	2,036	2,129	2,219	2,249	2,231	2,081	2,018	2,128	2,266
Botanic Garden <sup>8</sup>	57	62	66	67	57	66	65	67	67	66
Congressional Budget Office <sup>9</sup>	NA	NA	197	206	217	207	210	207	208	206
Copyright Royalty Tribunal <sup>9</sup>	NA	NA	NA	9	10	10	10	8	8	6
Cost Accounting Standards Board <sup>9</sup>	40	40	40	36	33	27	NA	NA	NA	NA
General Accounting Office	5,287	4,897	6,372	6,428	6,386	6,329	6,434	6,269	6,186	6,248
Government Printing Office	8,356	8,444	8,077	7,698	7,325	7,069	6,610	6,310	6,936	6,742
Library of Congress, Excluding CRS <sup>13</sup>	3,804	4,039	4,131	4,332	4,376	4,536	4,436	4,303	4,416	4,402
Congressional Research Service <sup>16</sup>	676	746	806	810	806	867	888	869	825	873
Office of Technology Assessment <sup>9</sup>	NA	NA	NA	138	191	140	138	150	172	186

TABLE 1. Legislative Branch Employment: Selected Years (1945-1993)<sup>1</sup>

	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993
<b>Legislative Branch, Total<sup>2</sup></b>	37,830	37,538	36,699	36,997	36,498	36,043	36,292	37,811	37,896	37,360
Congress-Subtotal	18,876	19,048	17,927	18,827	18,535	18,831	18,741	19,769	19,866	19,610
U.S. Senate <sup>4</sup>	7,046	7,168	6,811	7,219	7,044	7,232	7,217	7,496	7,620	7,409
U.S. House of Representatives <sup>6</sup>	11,830	11,880	11,116	11,608	11,491	11,699	11,524	12,274	12,236	12,101
Personal staff	7,627	7,811	7,271	7,486	7,380	7,439	7,302	7,806	7,697	7,174
Committee staff	2,116	2,213	2,086	2,241	2,193	2,200	2,244	2,166	2,110	2,231
Other staff <sup>7</sup>	2,088	1,866	1,767	1,871	1,908	1,960	1,978	2,302	2,528	2,696
Architect of Capitol <sup>8</sup>	2,262	2,141	2,096	2,120	2,190	2,211	2,224	2,270	2,374	2,374
Botanic Garden <sup>8</sup>	66	64	61	64	64	63	67	64	63	63
Congressional Budget Office <sup>9</sup>	220	213	220	212	216	219	234	230	233	233
Copyright Royalty Tribunal <sup>9</sup>	7	8	7	7	7	8	10	10	9	9
Cost Accounting Standards Board <sup>9</sup>	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
General Accounting Office	6,310	6,374	6,164	6,362	6,319	6,284	6,283	6,378	6,166	6,166
Government Printing Office	6,647	6,391	6,223	6,202	6,126	4,997	4,934	4,883	4,864	4,864
Library of Congress, Excluding CRS <sup>13</sup>	4,460	4,363	4,036	4,172	3,992	3,916	3,822	4,189	4,099	4,126
Congressional Research Service <sup>16</sup>	893	862	768	819	868	829	797	831	838	811
Office of Technology Assessment <sup>9</sup>	210	194	198	202	201	196	190	197	214	214



TABLE 1. Legislative Branch Employment: Selected Years (1945-1993).<sup>1</sup>

<sup>1</sup> The table shows the number of Legislative Branch employees for selected years 1945-1993. Except where noted for 1945 and 1950, sources for employment statistics are the Workforce Analysis and Statistics Division, Office of Personnel Management (OPM) and the Clerk of the House. Prior to 1989, statistics were published in the "Monthly Report of Federal Employment." From 1989 to 1985, OPM statistics were published in the "Federal Civilian Manpower Statistics - Monthly Release." Since then, they have been published in a bimonthly publication entitled, "Federal Civilian Workforce Statistics, Employment and Trends." These figures reflect those as of December of each year, except 1993 which reflects January statistics (the latest available). Table includes those legislative entities under the jurisdiction of the House and Senate Legislative Branch Appropriations Subcommittees. Staff for joint entities are included by OPM under Senate and House.

<sup>2</sup> Figures for Legislative Branch totals are derived by adding the subtotals of legislative branch entities in this table, except for 1945 and 1950. For these two years, data is not available for all legislative branch entities.

<sup>3</sup> Includes GAO. See footnote #10.

<sup>4</sup> For 1954 to 1974, OPM does not list House and Senate employees as separate entities, only a total number for Congress. The number of Senate employees is not available from the Senate. Senate total employment is derived by subtracting the House figure (provided by the Clerk of the House) from the total OPM figure for Congress. Hence, the Senate figure is only an estimate of the actual number of employees in 1954 to 1974. From 1975 to present, each Senate figure is from OPM. Each Senate figure includes staff in personal offices, committees, and other offices (Leadership, Senate offices, U.S. Capitol Police-Senate aide, etc.). No Senate data is available for Senate officers, committee employees, personal employees and other categories similar to that provided in this table for the House. For 1975 to present, the total Congress figure is derived by adding the House figure (provided by the Clerk) and the Senate figure (provided by OPM). Thus the figures in this table for both Congress subtotal and Legislative Branch total are slightly different than that provided by OPM for those two figures.

<sup>5</sup> Figures for total Senate employment for 1945 and 1950 are not available. Interpolating growth rates between 1935 and 1947 was used to create a number for congressional employment in 1945. Data is from Vital Statistics 1991-1992, p. 26 and p. 30, by Congressional Quarterly.

<sup>6</sup> Source is Clerk of the House of Representatives. Statistics as of December 31st of each year, except January 1993. Figures for total House employment, House personal, committee and other staff are not available for 1954, 1957 and 1959. The numbers for 1957 and 1959 are averages based on 1956, 1958, and 1960 data.

<sup>7</sup> Includes employees of the House Leadership, Officers of the House, House Chaplain, Office of the Parliamentarian, Office of the Historian, Law Revision Counsel, Legislative Counsel, House Democratic Steering Committee and Caucus, House Republican Conference, Six Minority Employees, LBJ Interns, Former Speakers' Staff, Technical Assistant to the Attending Physician, Leadership Drivers, and the Capitol Police.

<sup>8</sup> Source is Architect of Capitol.

<sup>9</sup> The legislative entity did not exist as indicated by NA.

<sup>10</sup> Source for 1945 and 1950 is GAO. Before 1950, GAO was responsible for auditing all individual federal transactions and keeping a record of them. Legislation in 1950 transferred these responsibilities to the Executive Branch, hence reducing staff substantially. Prior to FY 1968, GAO was funded under Independent Offices regular appropriations bills. In FY 1968, GAO was funded as part of Legislative Branch regular appropriations bills. For consistency, GAO is included in this table for all years. GAO figures vary slightly in OPM report and in GAO History, 1921-1991 by Roger Traak.

<sup>11</sup> Source is GPO for January 31, 1945.

<sup>12</sup> Source is GPO for June 30, 1950.

<sup>13</sup> Source is OPM for total number of Library of Congress (LOC) employees. Figures for each year reflects OPM total LOC employees minus figure provided by Congressional Research Service for CRS employees.

<sup>14</sup> Figure was not available for 1945. Figure of 1,457 is for December 29, 1946. Source is Annual Report of Librarian of Congress, FY 1947.

<sup>15</sup> June 25, 1950. Source is Annual Report of the Librarian of Congress, FY 1950.

<sup>16</sup> Source is CRS. Figures are employees on payroll as of September 30 of each year, except for January, 1993. OPM does not provide CRS statistics, but only a total for Library of Congress.

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LEGISLATIVE BRANCH BUDGET AUTHORITY, PERMANENTS EXCLUDED:  
FY 1945, FY 1950, FY 1955, FY 1960, FY 1965, & FY 1970-FY 1993E  
(In Current Dollars in Thousands)

May 14, 1993

FY 1970-FY 1993E

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FY 1945, FY 1950, FY 1955, FY 1960, FY 1965

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May 11, 1993

TABLE 1. Legislative Branch Budget Authority, Permanents Excluded: 1945, 1950, 1955, 1960, 1965 & 1970-1993E (in current dollars in thousands) <sup>1</sup>												
	1945	1950	1955	1960	1965	1970	1971	1972	1973	1974		
Legislative Branch, Total	62,774	97,256	127,968	134,782	184,909	339,675	417,766	533,713	585,458	637,324		
Congress-Subtotal	11,191	26,561	36,667	60,426	86,977	157,394	179,777	220,822	227,263	271,237		
U.S. Senate	3,957	10,698	14,655	24,990	31,957	54,662	63,714	71,257	74,451	92,776		
U.S. House of Representatives	7,234	15,863	22,012	35,436	48,143	89,386	100,676	111,137*	126,658*	142,146*		
Joint Items <sup>2</sup>	--	--	--	--	6,877	13,346	15,387	38,428	26,154	36,315		
Architect of Capitol	2,290	21,948	44,960	12,220	15,234	24,476	37,268	96,633	102,673	52,311		
Botanic Garden	115	193	226	328	500	624	715	763	811	885		
Congressional Budget Office	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA		
Congressional Research Service <sup>3</sup>	178	717	897	1,455	2,413	4,683	5,653	7,238	9,155	11,391		
Copyright Royalty Tribunal	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA		
Cost Accounting Standards Board	NA	NA	NA	NA	NA	NA	820	1,500	1,650	1,500		
General Accounting Office <sup>4</sup>	38,480	35,070	31,981	41,800	46,635	70,273	79,987	89,203	97,794	109,395		
Government Printing Office	6,227	5,264	4,673	5,705	11,482	40,345	66,216	66,330	76,262	112,871		
Library of Congress, Except CRS	4,293	7,503	8,664	12,848	21,668	41,880	47,330	61,224	69,950	75,734		
Office of Technology Assessment	NA	NA	NA	NA	NA	NA	NA	NA	NA	2,000		

The authors wish to thank Linda Bailey and Daphne Bigger for their vital assistance.

CRS-2

TABLE 1. Legislative Branch Budget Authority, Permanents Excluded: 1945, 1950, 1955, 1960, 1965 & 1970:1993E (in current dollars in thousands)—Continued<sup>1</sup>

	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984
<b>Legislative Branch, Total</b>	743,829	900,046	1,015,453	1,031,646	1,152,350	1,242,942	1,176,851	1,327,579	1,467,604	1,612,584
<b>Congress Subtotal</b>	314,886	401,225	491,966	504,755	570,225	596,310	546,334	655,074	709,403	771,223
U.S. Senate	103,944	121,437	148,365	159,950	208,977	207,375	153,607	219,598	239,008	256,003
U.S. House of Representatives	165,172	207,149*	238,469	271,348	287,402	299,913	331,726	351,004	367,871	419,932
Joint Items <sup>2</sup>	45,770	72,639	105,132	73,457	73,846	89,022	61,001	84,472	102,524	95,288
Architect of Capitol	68,757	76,290	62,509	64,927	61,798	114,007	76,638	83,173	143,978	181,414
Botanic Garden	1,018	1,252	1,233	1,371	1,448	1,464	1,644	2,351	1,897	2,058
Congressional Budget Office	NA	4,868	9,577	10,400	11,368	12,386	12,519	13,226	15,094	16,723
Congressional Research Service <sup>3</sup>	13,722	17,199	20,520	23,041	25,553	27,890	29,689	31,605	35,240	37,632
Copyright Royalty Tribunal	NA	NA	276	726	805	471	461	467	469	210
Cost Accounting Standards Board	1,628	1,635	1,700	1,837	1,850	1,300	NA	NA	NA	NA
General Accounting Office <sup>4</sup>	124,989	134,903	157,090	176,680	185,906	204,300	220,602	236,000	252,665	271,710
Government Printing Office	129,065	153,869	141,727	106,671	109,050	121,238	122,650	129,851	121,829	125,700
Library of Congress, Except CRS	85,068	102,227	121,489	133,557	174,647	152,377	155,131	163,643	173,945	191,083
Office of Technology Assessment	4,696	6,578	7,366	8,681	9,700	11,199	11,183	12,169	13,084	14,831



## CRS-3

TABLE 1. Legislative Branch Budget Authority, Permanents Excluded: 1945, 1950, 1955, 1960, 1965 & 1970-1993E (in current dollars in thousands)—Continued <sup>1</sup>										
	1965	1966	1967	1968	1969	1970	1991	1992	1993E	
Legislative Branch, Total	1,599,818	1,555,455	1,721,653	1,747,447	1,947,794	1,947,032	2,176,442	2,303,844	2,275,148	
Congress-Subtotal	822,554	827,342	947,607	948,466	971,538	1,086,390	1,193,000	1,224,254	1,203,260	
U.S. Senate	285,990	278,464	327,292	339,698	344,387	393,217	436,000	449,568	451,451	
U.S. House of Representatives	439,398	429,075	516,594	513,787	506,168	527,668	643,000	693,970	671,333	
Joint Items <sup>2</sup>	97,258	119,803	103,791	94,981	120,983	187,505	114,000	80,716	80,478	
Architect of Capitol	90,890	97,023	104,160	107,306	262,281	121,983	138,454	166,820	159,346	
Botanic Garden	2,080	2,094	2,135	2,221	— <sup>3</sup>	2,590	3,519	2,862	4,906	
Congressional Budget Office	17,541	16,160	17,783	17,886	18,361	19,229	21,183	22,542	22,542	
Congressional Research Service <sup>3</sup>	40,333	37,288	40,434	43,022	44,684	45,820	51,884	56,563	57,291	
Copyright Royalty Tribunal	217	149	125	129	123	101	127	130	130	
Cost Accounting Standards Board	NA	NA	NA	NA	NA	NA	NA	NA	NA	
General Accounting Office <sup>4</sup>	299,704	288,051	310,973	329,847	347,339	359,254	409,242	442,647	435,167	
Government Printing Office	122,868	98,472	95,085	89,521	85,731	84,049	103,109	118,673	118,673	
Library of Congress, Except CRS	187,909	173,234	186,715	192,148	199,810	207,240	—	248,308	252,808	
Office of Technology Assessment	15,692	14,642	16,636	18,901	17,937	18,376	19,657	21,025	21,025	

<sup>1</sup> Sources are (1) U.S. Budget document for each year (1945-1991) and (2) House Appropriations Committee (1992 and 1993E). For FY45, figures were designated "Appropriations" rather than budget authority. All figures were rounded. Asterisks by budget authorities for House of Representatives reflect revised OMB numbers as provided by the Office of the House Clerk. The Clerk's revisions are based on Treasury warrants available only to the Clerk and House and Senate Appropriations Committees. Although budget authorities were taken from Office of Management and Budget (OMB) data, the usual legislative budget authority for each year does not correspond to OMB's total yearly budget authority. This is so because this table excludes permanent, trust funds, Biomedical Ethics Board, Congressional Award Board, Sten Center, Railroad Accounting Principles Board (the latter four of which were funded at some time in legislative appropriations bills from 1970-1993), and non-legislative branch entities such as U.S. Tax Court's various commissions that are itemized under the legislative branch in the Budget. FY91 BA figures for the Senate, House, Joint Items, and trust funds were available from OMB only in millions of dollars; FY BA figures for all other legislative branch entities were available in thousands of dollars from the appendix section, "Detailed Budget Estimates."

<sup>2</sup> Prior to FY65, there was no "Joint Items" account. Budget authorities that appeared under Joint Items beginning in FY65 were previously included separately under Senate and House accounts.

<sup>3</sup> Congressional Research Service was named Legislative Reference Service until 1971.

<sup>4</sup> Prior to FY66, the General Accounting Office was listed under Independent Agencies, not Legislative Branch, in budget documents. The General Accounting Office is included in this table because it was later funded under Legislative Branch Appropriations.

<sup>5</sup> OMB data did not include a separate figure for Botanic Garden.

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## Congress of the United States

JOINT COMMITTEE ON  
 THE ORGANIZATION OF CONGRESS  
 ROOM 1750 FORD HOUSE OFFICE BUILDING  
 Washington, DC 20515-6775

May 20, 1993

TO : Joint Committee on the Organization of Congress  
 SUBJECT : Background on Committee Staff and Funding

This memorandum provides background on the funding of congressional committee staff, and on related issues.

## I. HOUSE AND SENATE

## A. The Legislative Reorganization Act of 1946

Although committees were authorized staff as early as the middle of the nineteenth century, it was not until the passage of the Legislative Reorganization Act of 1946 (60 Stat. 812) that the modern staffing system was instituted. The 1946 Act authorized a permanent complement of four professional and six clerical staff for each House and Senate standing committee -- except the Appropriations Committees, which were allowed to determine their own staffing levels. These staff came to be called "statutory" staff or "permanent" staff. Professional staff were to be appointed "solely on the basis of fitness to perform the duties of the office" -- that is, on a nonpartisan basis. While their duties were not specified, they could engage in no work other than committee business. Clerical staff were to handle committee correspondence and stenographic work for a committee's chair, ranking minority member, and professional staff. Although Congress discussed proposals to divide a committee's staff between its chair and the ranking minority member, the Act left to the discretion of each committee the assignment of staff to the majority or minority.

The 1946 Act also authorized each Senate standing committee \$10,000 per Congress for specified, routine purposes. Some Senate committees obtained increases to this amount in one or more subsequent Congresses, through funding resolutions authorizing additional expenses for routine purposes.

## B. The Legislative Reorganization Act of 1970

In the years following the 1946 Act, the House and Senate authorized additional staff, by law or by annual or permanent resolution, for some standing committees. Not until 1970, however, did Congress enact another omnibus act affecting staff levels across the standing committees. The Legislative Reorganization Act of 1970 (84 Stat. 1140) increased from four to six the number of professional staff for each such committee, but made no change in the number of clerical staff. In addition, the 1970 Act set out a procedure whereby each House and Senate standing committee could annually request funds for staff in addition to the statutory positions. This procedure was intended to clarify, formalize, and incorporate into Chamber rules existing practices of committees. Under the Act, each committee would submit

an annual resolution for funds for additional staff and for other expenses for a one-year period. If later in the year a committee required additional funds, it could request them through a supplemental funding resolution. The law did not limit the number of staff that could be hired pursuant to these resolutions; these employees have come to be called "investigative" staff. The House has since retained a distinction between statutory and investigative staff, but the Senate abolished such a distinction in 1981.

The 1970 Act first provided for separate staff for a standing committee's minority party members. The general intent was to provide the minority adequate resources to prepare "informed dissent on alternative courses of action," as stated in the report on a Senate version of the Act. Of each committee's statutory staff, one clerical and two professional staff could be hired by a majority of a committee's minority party members. Minority staff of a Senate committee were not subject to any veto by the committee as a whole, whereas all House statutory staff were subject to approval of a majority of the committee. Minority committee members were to assign such committee business as they "considered advisable" to their professional staff, while clerical staff were to handle correspondence and stenographic work of minority members and professional staff.

The minority on Senate committees were not authorized a specific portion of funds for investigative staff. Rather, they were to receive "fair consideration" in the appointment of staff pursuant to any annual or supplemental funding resolution. The minority on each House committee was entitled to not less than one-third of the funds provided for investigative staffs, if they so requested. However, at the outset of the next Congress, the House eliminated this provision and, instead, agreed to give the minority "fair consideration" with respect to appointing staff to the standing committees. Also, the 1970 Act accorded all minority staff equitable treatment with respect to pay, the assignment of facilities, and access to committee records. Generally, the House and Senate Appropriations Committees and House Committee on Standards of Official Conduct were exempt from minority staffing provisions. Other provisions of the Act allowed committees to hire consultants, to provide staff with specialized training, and to set Senate committee staff salaries comparable to those in the House.

Neither the 1946 Act nor the 1970 Act authorized statutory staff for select (or special) committees of the House or Senate, although a few were provided with such staff. For example, the former Senate Select Committee on Small Business received statutory staff and the \$10,000 allotment for routine purposes. Currently, the Select Committee on Ethics has a permanent authorization to draw funds as needed. However, funds for select committees generally were authorized through periodic resolutions.

## II. HOUSE OF REPRESENTATIVES

### A. Statutory Staff Funding Since 1970

The number of statutory staff for each House standing committee was next altered by the adoption of H.Res. 988, the Committee Reform Amendments of 1974, and it has not been altered since. The change increased the number of professional employees from 6 to 18 and clerical employees from 6 to 12 (except Appropriations). Of a committee's 30 statutory staff, the minority's share was increased to six professional and four clerical workers. In lieu of or in addition to committee staff designated exclusively for one party, a committee could employ non-partisan staff, by vote of a majority of each party on a committee. Also, all statutory staff were to be appointed without regard to race, creed, sex, or age, and solely upon the basis of fitness for duties. Other action in 1974 extended to the new Budget Committee the prerogative of the Appropriations Committee to set its staffing level.



In 1983 the Permanent Select Committee on Intelligence was first authorized funds for 30 statutory staff. It also receives funds for investigative staff and other expenses, and like the Standards of Official Conduct Committee, it is exempt from minority staffing requirements. Other recent select committees had not been authorized statutory staff.

## **B. Investigative Staff Funding Since 1970**

### **1. Minority Staffing**

The distribution of investigative funds between the majority and minority on each standing committee was to have changed following the adoption of H.Res. 988. Upon request, the minority members were to receive one-third of such funds for the appointment of staff. From these funds, the full committee's ranking minority member was to provide funds to each subcommittee's ranking member to hire a professional aide. However, these provisions were replaced at the outset of the next Congress (1975) with a new rule authorizing each subcommittee chair and ranking minority member to appoint a staff person from funds authorized by any funding resolution. This privilege, which extended to only six subcommittees of each committee, has helped guarantee independent staffing of House subcommittees. Many committees currently provide their subcommittees with funds to hire additional staff.

In recent years the minority party has sought to obtain one-third of each committee's investigative funds and/or staff (or of each committee's *total* funds and staff). During the 1989 funding cycle, the Committee on House Administration agreed "in principle" to increase the minority's share of investigative staff on each committee to 20% in 1989, and to 33% within a few years. It also directed that the issue be referred to the Democratic Caucus. The Caucus acted on the issue at a Dec. 4, 1990 meeting, by stating in its rules for the 102d Congress that no committee is required to provide more than 20% of investigative funds to its minority members. The Caucus's Committee on Organization, Study, and Review considered it unnecessary to require allocating one-third of investigative funds on the grounds that House Rules currently require allocating one-third of a committee's statutory positions to its minority. Today, the minority continues to work towards obtaining one-third of each committee's investigative resources, or of each committee's total budget and staff.

### **2. Annual Budgeting**

Currently, House committees that receive statutory staff (except Appropriations and Budget) hire additional personnel pursuant to funding resolutions. Because the Appropriations and Budget Committees have a permanent authorization for staff, they do not submit annual funding resolutions. By contrast, recent select committees (other than Intelligence) had received all funds for staff and other expenses through funding resolutions. To obtain funds for investigative staff salaries and office expenses, each House committee (except Appropriations and Budget), at the outset of each session of Congress, reports a resolution requesting funds for the session.

The resolutions are referred to the Committee on House Administration, which generally refers them to its Subcommittee on Accounts. Under recent practice, the Subcommittee chair submits to the House an omnibus resolution, which contains funding levels for each committee equal to that contained in its individually reported resolution and which becomes the vehicle for further action. The Subcommittee scrutinizes each committee's funding request and supporting materials, and holds hearings during which committee chairs and ranking minority members testify on their budgets. Subsequently, it marks up and reports the omnibus resolution to the full committee. In determining each committee's funding level, the Subcommittee does not apply any uniform formula. The full Committee then marks up and reports the omnibus resolution to the House, where it is debated and agreed to. For each year

since 1981, the Committee appears to have reported an omnibus resolution, whereas previously it appears to have reported an individual resolution for each committee.

Until the House agrees to the omnibus funding resolution, House rules permit a committee to spend for each of January, February, and March, 9% of the previous session's total annualized amount of funding, unless the Committee on House Administration establishes a lesser amount. In 1985 House Rules began providing for this automatic interim funding for the first session of a Congress, and in 1987 the Rule was changed to apply also to the second session. Earlier, resolutions providing interim funding had been routinely adopted at the outset of a Congress. If later in the year a committee requires additional funds, it may request them through a supplemental funding resolution that is also referred to the Committee on House Administration and is subject to House approval. In recent years, the Committee has tried to discourage supplemental resolutions, in part to limit spending in an era of high budget deficits.

#### C. Associate Staff

On three House committees -- Appropriations, Budget, and Rules -- each Member is authorized to designate staff, commonly called "associate staff," although the specific authority differs somewhat among these committees. Each Member of the Committee on Appropriations may, in essence, designate two members of the staff, whereas each Member of the Committees on Budget and Rules may designate one staff member. The authority for Members of these three committees to hire aides appears to be contained only in the individual rules of these committees. Thus, it would appear to be within a committee's discretion, within certain regulations, how to distribute resources and whom to authorize to choose staff.

In the 102nd Congress, rank and file Members of at least two other committees sought to control additional staff resources. Nevertheless, during the 1991 funding cycle, the Committee on House Administration appeared to provide funds for this purpose for only one committee. The omnibus funding resolution agreed to by the House essentially authorized \$11,000 for each Member of the Committee on Ways and Means, to supplement the salary of the Member's personal office aide who covers Ways and Means issues. Many Ways and Means Committee Members, particularly junior ones, argued for these funds both to increase their share of committee resources and to compensate adequately and retain staff with knowledge and expertise for handling the Committee's work.

It is probable that the chairs of other House committees generally control most funds and select and designate most staff, while the ranking member controls some funds and selects and designates some minority staff. Also, under House Rules subcommittee leaders may choose a specified number of staff. Committees differ as to the number of additional staff under subcommittee leadership control. Nevertheless, it is impossible to state with certainty that other committees do not allow rank and file committee Members to choose staff. Only a survey of House committees would reveal whether this is the practice.

#### D. Staff Levels and Salaries

As no statutory limitations exist on the number of investigative staff who can be employed by a committee with regular or supplemental funds, the number varies widely. For example, in 1992 the Committee on Energy and Commerce employed 114 investigative (and 144 total) staff; the Committee on Armed Services employed 52 investigative (and 82 total) staff; and the Committee on Rules employed 15 investigative (and 45 total) staff. Also, committees determine the salaries of their employees, whether investigative or statutory. The maximum salary for House committee staff is set by pay order of the Speaker of the House. Currently, whereas most House committee staff may earn up to \$108,234, nine per committee (6 majority and 3



minority) may earn up to \$116,251, and three per committee (2 majority and 1 minority) may earn up to \$122,932.

#### **E. Authorization vs. Appropriation**

Congressional funding requires both an authorization and an appropriation. Funds for salaries of statutory staff have a permanent authorization covering 30 staff for each committee, except Appropriations and Budget, which set their own staffing levels. Funds for all statutory staff are appropriated in a lump sum through annual legislative branch appropriation bills, under the heading "Committee Employees" in the "Salaries and Expenses" account. Committees draw varying amounts from this sum, because they pay their employees different salaries.

The Appropriations and Budget Committees also have a permanent authorization for funds for investigative staff salaries and office expenses. Funds for investigative salaries and office expenses of other standing committees and for the Permanent Select Committee on Intelligence are authorized by resolutions. (Funds for all staff and expenses of other select committees, such as the four that recently expired, generally have been authorized by resolutions.) These funds are appropriated through the "Salaries and Expenses" account of annual legislative branch appropriation bills. Committees, except Appropriations and Budget, are funded under the heading "Contingent Expenses of the House (standing committees, special and select)." The heading for the Appropriations Committee is "Contingent Expenses of the House, Committee on Appropriations (Studies and Investigations)," and for the Budget Committee, "Committee on the Budget (Studies)."

Authorization and appropriation cycles are not the same. Funds for all House committee expenses are appropriated on a fiscal year basis, but are not authorized by fiscal year. As a result, authorized funds are drawn from monies appropriated in two different fiscal years. In the House, funds for investigative staff salaries and office expenses are authorized from January 3 of one year to January 3 of the next. In practice, the House approves an omnibus authorizing resolution several weeks after January 3, and until then, committees receive automatic interim funds based on the previous year's funding level.

### **III. SENATE**

#### **A. Staff Funding Since 1970**

Following the Legislative Reorganization Act of 1970, Senate standing committees each received a base of 12 statutory staff (6 professional and 6 clerical); \$10,000 per Congress for routine purposes, sometimes increased for particular committees; and funds for general expenses and for additional staff, through annual expense resolutions. For the most part, select committees received funds through annual expense resolutions, although a few were authorized statutory staff and \$10,000 per Congress for routine purposes. For example, in 1977 the Special Committee on Aging became eligible for both statutory staff and the \$10,000 allotment.

##### **1. "S.Res. 60 Staff:" Legislative Assistance Allowance**

The Senate committee staffing system was affected by the 1975 adoption of S.Res. 60, which allowed Senators to hire a maximum of three assistants to handle work related to the Member's assigned committees. Senators were allowed varying numbers of staff, depending on the number and type of committees on which they served and their positions on these committees. The resolution did not provide additional staff assistance to Senators on a committee, such as committee chair and ranking member, who already appointed staff to that committee. Staff hired under S.Res. 60 were to be accorded all the privileges of professional

staff members, including access to committee sessions and files. The measure was promoted by junior Senators, who argued during floor debate that they did not have regular and dependable access to committee staff and that they did not have enough staff to stay abreast of committee legislation. They maintained that committee staff then worked predominantly for committee leaders and other senior committee members. Although it accorded all Senators some new staff, the measure was viewed as weakening the power base of senior Senators, and thus it was opposed by many of them. Some Senators also had opposed the measure because of its anticipated high cost, but it was agreed to nevertheless.

In 1977, the Senate codified into law (P.L. 95-94) provisions of S.Res. 60. In 1987, it repealed the required reduction of a Senator's legislative assistance allowance if the Senator already appointed committee staff. Today each Senator receives a \$387,177 legislative assistance allowance to compensate staff assistants designated to work on committee business. Each employee may be designated for only one committee, and a Senator must certify such employee to the chair and ranking minority member of the relevant committee. With certain exceptions, an employee so designated has all the privileges of a professional staff member of the relevant committee.

## 2. Minority Staffing

Also in 1977, by adopting the Committee System Reorganization Amendments (S.Res. 4), the Senate altered the distribution of staff between a committee's majority and minority members. S.Res. 4 required a committee's staff to reflect the relative number of its majority and minority members, and it allowed a majority of a committee's minority members to request at least one-third of the committee's personnel funds to hire staff of the minority's choice. This ratio was to be calculated after excluding staff funded for administrative and clerical functions, as agreed upon by the chair and ranking minority member. If minority members requested separate funds, a committee could adjust its budget into compliance equitably over a 4-year period. A committee's minority members also could request proportionate space, equipment, and facilities. These minority staffing provisions have not been altered significantly since 1977.

## 3. Consolidated Funding

The Senate simplified its funding procedures in 1981 (S.Res. 281 and S. 2018, 96th Congress), by requiring each committee (except Ethics) to report annually a single funding resolution requesting funds for all salaries and expenses. It ended the specified \$10,000 allotment for routine purposes, and the exemption of the Appropriations Committee from the funding process. The Select Committee on Ethics was still allowed to draw funds as needed. The new consolidated funding method ended the distinction between statutory and investigative staff. The Senate expected the new procedure to facilitate cost savings as well as better review and control of committees' staffing needs.

## 4. Biennial Budgeting

At the outset of the 101st Congress, Senate committees first reported 2-year (rather than 1-year) funding resolutions, and received authorizations for the 2-year Congress. The Senate agreed to the switch to the 2-year funding cycle in 1988 when it adopted S.Res. 479, permitting the Committee on Rules and Administration: (1) to direct committees to report a 2-year budget authorization and (2) to report an omnibus committee funding resolution containing more than one committee authorization for either 1- or 2-year periods. The Committee on Rules and Administration promoted 2-year funding resolutions to give committees more flexibility in spending and to save money and time.

The biennial resolution for the 101st Congress first reflected new policies of the Committee on Rules and Administration regarding both funding for special needs of

committees and carrying over unexpended funds. Special needs of committees are funded on a temporary, non-recurring basis, which allows a committee a one-time budget increase to cope with unusual circumstances. Such funds do not form part of the baseline for determining future funding levels, as they often did in the past.

The carryover policy allows each Senate committee to carry over unexpended funds from one year to the next; traditionally, committees were unable to do so. In essence, a portion of funds can be carried over from the first to the second session of a Congress, and from the second session of one Congress to the first session of the next. This policy will reduce the incentive of committees to spend all funds during the year authorized, according to the leaders of the Committee on Rules and Administration, because unspent funds will remain available to the committee in the next year rather than be lost.

Under the Senate's new biennial funding arrangements, at the outset of each Congress each committee (except Ethics) reports a resolution requesting funds for 2 years. In general, such resolutions must be reported by no later than January 31 of the odd-numbered year; however, if during the first session the Senate elects members of standing committees after January 20, committees may report funding resolutions within 30 days of the completed election. In the past few Congresses, the Committee on Rules and Administration has advised committees on the percent of permissible increase, or required decrease, over last year's funding level.

These resolutions are referred to the Committee on Rules and Administration, where they are studied along with supporting materials, including quarterly workload data on various committee functions. (In the 100th Congress (1987-1988), the Committee on Rules and Administration had modified the funding process by requiring that each committee submit statistical data on various activities, such as nominations, hearings, and investigations, on a quarterly basis beginning Mar. 1, 1988. The Committee intended to evaluate such data in connection with future funding levels.) The Committee holds hearings, receiving testimony from committee chairs and ranking minority members, then reports an omnibus resolution authorizing funds for all committees. It appears that the Committee has reported such consolidated funding resolutions since 1982. The resolution is then debated on the Senate floor and must be agreed to by a majority of the Senate voting. This process is similar to that for House investigative staff salaries and office expenses. If later in the Congress a committee requires additional funds, it may request them through a supplemental funding resolution that would be referred to the Committee on Rules and Administration and require full Senate approval.

#### **B. Staff Levels and Salaries**

Since no statutory limit exists on the number of staff who can be employed by a committee with funds from funding resolutions, the numbers vary widely among committees. For example, in 1992 the Committee on Labor and Human Resources employed 126, whereas the Committee on the Budget employed 57, and the Committee on Veterans' Affairs employed 22. Also, committees determine their employees' salaries within a maximum set by pay order of the President Pro Tempore. Presently, Senate standing committee staff may earn up to \$130,915; select committee staff, up to \$129,059.

#### **C. Authorization vs. Appropriation**

Funds for all committee staff salaries and office expenses are authorized by biennial resolutions, through the process described above, and are appropriated through annual legislative branch appropriations bills. Under the "Contingent Expenses of the Senate," the

"Inquiries and Investigations" heading contains appropriations for Senate committees. In addition, funds for each Senator's legislative assistance (for aides performing committee work) are among the items appropriated under the heading "Senators' Official Personnel and Office Expense Account."

The authorization and appropriation cycles are not the same. Funds for all committee expenses are appropriated on a fiscal year basis, but are authorized biennially. As a result, funds authorized for a 2-year Congress are drawn from monies appropriated in three different fiscal years. Based on this new biennial funding method, funds for Senate committees are authorized from the beginning of March of the first year to the end of February of the second year, and from the beginning of March of the second year to the end of February of the third year. Each 12-month period accordingly covers chiefly one calendar year and session of Congress. There is a 2-month overlap into the new calendar year, to give the Senate sufficient time at the outset of the new Congress to accommodate the several steps of the funding process.



Table 1. House Committee Inquiry Funding Authorizations<sup>1</sup>

Congress & Year	96th Cong. 1979	96th Cong. 1980	97th Cong. 1981	97th Cong. 1982	98th Cong. 1983	98th Cong. 1984	99th Cong. 1985	99th Cong. 1986
<b>Standing Committees</b>								
Agriculture	1,025,000	1,247,200	1,184,840	1,143,122	1,322,669	1,405,005	1,489,666	1,953,628
Appropriations <sup>2</sup>								
Armed Services	677,000	827,000	962,223	918,866	1,212,273	1,272,887	1,464,649	1,380,806
Banking	2,444,600	2,660,287	2,414,919	2,414,919	2,666,411	2,762,322	2,848,663	2,688,611
Budget <sup>2</sup>								
District of Columbia	316,000	289,670	276,187	265,000	288,432	292,468	306,364	277,469
Education & Labor	2,417,600	2,729,200	2,666,446	2,630,005	2,876,713	3,020,472	3,141,664	2,864,446
Energy & Commerce	3,708,000	3,760,000	3,760,000	3,969,000	4,266,000	4,467,760	4,640,970	4,217,161
Foreign Affairs	1,746,800	1,876,124	1,800,119	1,928,424	2,086,400	2,262,878	2,669,086	2,362,647
Gov't Operations	2,093,600	2,274,900	2,229,402	2,230,000	2,462,601	2,666,818	2,664,122	2,420,631
House Admin. <sup>3</sup>	1,186,000	1,744,600	1,219,000	977,000	977,000	996,000	996,000	904,136
Interior/Nat. Res.	1,200,000	1,316,679	1,219,616	1,249,616	1,431,622	1,637,163	1,602,027	1,466,728
Judiciary	1,432,000	1,406,677	1,360,410	1,462,398	1,631,179	1,760,962	1,826,706	1,661,706
Merchant Marine	1,494,074	1,682,171	1,681,241	1,609,104	1,776,766	1,884,643	1,986,948	1,760,064
Post Office	860,000	960,000	902,600	983,360	1,219,088	1,403,666	1,460,218	1,326,869
Public Works	1,870,000	1,870,000	1,806,373	1,840,621	2,009,994	2,100,901	2,100,901	1,909,046
Rules	619,000	616,000	630,738	466,732	626,667	662,748	686,913	632,406
Science	1,600,000	1,896,800	1,820,628	1,847,000	1,968,466	2,091,149	2,164,762	1,967,092
Small Business	762,660	776,000	776,000	804,660	874,600	918,000	961,161	864,319
Standards	600,000	600,000	460,000	400,000	660,000	280,261	160,000	466,302
Veterans Affairs	400,000	362,490	362,490	367,494	449,438	466,639	611,376	464,679
Ways & Means	2,000,000	2,262,000	2,262,000	2,202,000	2,343,133	2,410,000	2,942,170	2,673,486
<b>Subtotals</b>	<b>28,229,124</b>	<b>30,916,698</b>	<b>29,433,433</b>	<b>29,661,168</b>	<b>32,906,421</b>	<b>34,420,622</b>	<b>36,373,097</b>	<b>33,401,222</b>



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Table 1. House Committee Inquiry Funding Authorizations<sup>1</sup>

Congresses & Years	94th Cong. 1975	96th Cong. 1980	97th Cong. 1981	97th Cong. 1982	98th Cong. 1983	98th Cong. 1984	99th Cong. 1985	99th Cong. 1986
<b>Select Committees</b>								
Aging	1,060,000	1,235,000	1,185,640	1,223,680	1,316,057	1,398,573	1,454,308	1,321,498
Children, Youth & Families					634,608	700,000	721,000	656,167
Hunger						448,250	616,970	680,627
Intelligence	987,402	972,420	938,700	938,700	262,232	83,400 <sup>d</sup>	64,300	68,428
Narcotics Abuse & Control	700,000	600,000	540,000	540,000	616,823	643,643	662,952	602,410
Subtotals	2,717,402	2,805,420	2,662,380	2,702,380	2,729,720	3,274,666	3,619,630	3,186,121
Totals	80,946,628	33,721,118	32,096,815	32,363,648	36,636,141	37,686,189	39,692,627	36,689,848

Table 1. House Committee Inquiry Funding Authorizations <sup>1</sup>									
Congress & Years	100th Congress 1987	100th Congress 1988	101st Congress 1989	101st Congress 1990	102nd Congress 1991	102nd Congress 1992	103rd Congress 1993	103rd Congress 1994	
<b>Standing Committees</b>									
Agriculture	1,849,146	1,611,111	1,849,656	2,016,016	2,267,937	2,267,937	2,267,937	-	
Appropriations <sup>2</sup>	-	-	-	-	-	-	-	-	
Armed Services	1,009,250	1,657,528	1,980,746	2,070,857	2,464,082	2,464,082	2,635,884	-	
Banking	2,976,786	3,092,883	3,773,317	4,046,000	4,336,240	4,336,240	4,076,066	-	
Budget <sup>2</sup>	-	-	-	-	-	-	-	-	
District of Columbia	291,326	298,609	312,783	324,612	342,036	342,036	342,036	-	
Education & Labor	3,125,887	3,260,922	3,611,126	3,686,681	4,110,649	4,110,649	4,086,261	-	
Energy & Commerce	4,677,717	4,766,248	6,131,992	6,491,231	6,287,469	6,287,469	6,413,209	-	
Foreign Affairs	2,655,583	2,746,528	3,119,579	3,369,146	3,840,826	3,840,826	3,917,642	-	
Gov't Operations	2,653,369	2,731,533	2,931,046	3,082,942	3,282,875	3,282,875	3,282,875	-	
House Admin. <sup>3</sup>	1,092,369	1,109,634	1,200,000	1,606,000	1,941,460	1,941,460	1,941,460	-	
Interior/Nat. Res.	1,630,203	1,670,868	1,794,683	1,873,976	2,192,434	2,192,434	2,192,434	-	
Judiciary	2,177,727	2,648,722	2,809,038	2,189,206	2,430,016	2,430,016	2,490,766	-	
Merchant Marine	1,927,270	1,974,493	2,101,848	2,211,463	2,322,067	2,322,067	2,322,067	-	
Post Office	1,461,977	1,466,636	1,633,873	1,737,076	1,910,763	1,910,763	1,946,999	-	
Public Works	2,090,164	2,162,890	2,436,896	2,630,876	2,893,963	2,893,963	2,961,842	-	
Rules	669,740	683,964	646,762	672,413	722,479	722,479	722,479	-	
Science	2,165,977	2,220,240	2,442,264	2,637,646	2,901,410	2,901,410	2,999,486	-	
Small Business	907,665	926,808	968,868	1,096,396	1,066,000	1,066,000	1,066,000	-	
Standards	400,000	1,300,000	1,600,000	600,000	400,000	400,000	100,000	-	
Veterans Affairs	548,321	560,932	607,770	719,668	739,461	739,461	761,636	-	
Ways & Means	3,168,083	3,326,487	3,692,401	4,098,666	4,780,000	4,780,000	4,876,800	-	
<b>Subtotals</b>	<b>87,686,661</b>	<b>40,117,146</b>	<b>44,433,644</b>	<b>46,846,172</b>	<b>61,211,147</b>	<b>61,211,147</b>	<b>61,175,401</b>	-	

Table 1. House Committee Inquiry Funding Authorizations<sup>1</sup>

Congresses & Years	100th Congress 1987	100th Congress 1988	101st Congress 1989	101st Congress 1990	102nd Congress 1991	102nd Congress 1992	103rd Congress 1993	103rd Congress 1994
<b>Select Committees</b>								
Aging	1,381,144	1,388,387	1,430,016	1,481,499	1,642,240	1,642,240	416,406 <sup>5</sup>	-
Children, Youth & Families	874,812	688,308	708,957	734,479	764,593	764,593	206,440 <sup>5</sup>	-
Hunger	577,446	688,985	606,665	628,605	664,274	664,274	176,654 <sup>5</sup>	-
Intelligence	58,000	58,000	100,000	305,000 <sup>6</sup>	148,600	130,000	110,000	-
Narcotics Abuse & Control	620,482	632,892	661,879	700,770	729,602	729,602	196,968 <sup>5</sup>	-
Subtotals	3,291,884	3,365,562	3,497,510	3,850,253	3,839,209	3,820,609	1,106,465	-
Totals	40,828,485	48,473,708	47,981,083	49,698,425	55,060,366	55,091,766	62,279,868	-

Source: CRS report *House and Senate Committee Inquiry, Funding and Staffing Authorizations: 1979-1994* by Lorraine Tong, Adela Faber, and Frederick H. Paula, April 22, 1993, p. 3-6.

1. House committees have separate investigative and statutory funds. Accounts noted are for investigative expenses only, including supplemental funds. Funds for 1994 will not be authorized until 1994.

2. Appropriations and Budget Committees have permanent authorizations for investigative funds, whereas other committees are authorized annually by omnibus funding resolutions; thus no authorized funds are reported here. These Committees also set their own staff levels.

3. Investigative staff totals in Table 2 include House Information System staff, but funding levels in this table exclude the cost of these staff.

4. As of this year, committees entitled to statutory staff; hence drop in inquiry funds.

6. Committees not fully funded for 1993; sums authorized are for close-out costs.

6. In 1990 the Committee received a substantially higher authorization than usual because of one-time funding for enhancing and upgrading equipment.

Table 2. House Committee Staffing									
Congress & Years	96th Congress 1979	96th Congress 1980	97th Congress 1981	97th Congress 1982	98th Congress 1983	98th Congress 1984	99th Congress 1985	99th Congress 1986	
Standing Committees									
Agriculture	71	70	62	62	62	62	66	67	
Appropriations	131	122	137	133	147	170	198	197	
Armed Services	47	60	49	60	54	52	60	60	
Banking	149	98	87	96	87	91	99	90	
Budget	84	84	93	94	97	96	100	108	
District of Columbia	39	41	41	40	41	41	40	41	
Education & Labor	120	135	111	109	116	120	113	110	
Energy & Commerce	164	146	143	140	160	161	167	140	
Foreign Affairs	83	85	83	86	86	88	92	88	
Government Operations	86	86	80	79	88	83	86	76	
House Administration <sup>1</sup>	266	260	260	262	266	266	269	264	
Interior	87	70	70	71	73	69	72	71	
Judiciary	62	80	81	79	81	80	79	78	
Merchant Marine	91	70	82	72	80	80	77	61	
Post Office	66	66	67	69	83	76	82	79	
Public Works	82	83	82	80	86	86	80	82	
Rules	42	46	44	80	43	47	46	46	

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Table 2. House Committee Staffing

Congress & Year	94th Congress 1976	96th Congress 1980	97th Congress 1981	97th Congress 1982	98th Congress 1983	98th Congress 1984	99th Congress 1985	99th Congress 1986
Science	87	90	76	76	76	76	79	74
Small Business	49	55	52	57	67	63	61	63
Standards	16	16	9	21	20	10	9	10
Veterans Affairs	33	33	34	35	30	32	34	32
Ways & Means	94	90	91	91	91	91	92	88
Subtotals	1,959	1,862	1,824	1,853	1,802	1,919	1,969	1,893
Select Committees								
Aging	39	39	37	37	36	37	44	38
Children, Youth & Families	-	-	-	-	12	22	22	20
Hunger	-	-	-	-	-	11	16	16
Intelligence	24	25	22	22	19	17	22	18
Narcotics Abuse & Control	24	20	18	16	17	19	18	14
Subtotals	87	85	77	75	84	106	121	105
Totals	2,046	1,947	1,901	1,943	1,886	2,025	2,090	1,998



Table 2. House Committee Staffing									
Congresses & Years	100th Congress 1987	100th Congress 1988	101st Congress 1989	101st Congress 1990	102nd Congress 1991	102nd Congress 1992	103rd Congress 1993	103rd Congress 1994	
<b>Standing Committees</b>									
Agriculture	62	69	68	67	69	66			
Appropriations	202	206	200	200	216	214			
Armed Services	63	67	68	76	81	82			
Banking	94	99	111	110	110	102			
Budget	116	113	101	100	99	104			
District of Columbia	39	39	40	40	39	38			
Education & Labor	116	121	109	118	117	116			
Energy & Commerce	141	139	138	140	162	144			
Foreign Affairs	96	96	100	101	106	102			
Government Operations	76	76	81	87	87	86			
House Administration <sup>1</sup>	273	277	283	266	314	320			
Interior	69	69	67	71	81	82			
Judiciary	78	82	72	74	68	73			
Merchant Marine	73	74	76	76	76	76			
Post Office	80	80	80	77	80	80			
Public Works	80	81	83	84	97	86			
Rules	43	39	41	48	47	46			

Table 2. House Committee Staffing

Congresses & Years	100th Congress 1987	100th Congress 1988	101st Congress 1989	101st Congress 1990	102nd Congress 1991	102nd Congress 1992	103rd Congress 1993	103rd Congress 1994
Science	71	78	79	78	85	91		
Small Business	64	62	61	49	64	61		
Standards	11	10	8	11	11	12		
Veterans Affairs	41	42	42	41	42	46		
Ways & Means	96	99	96	98	136	138		
<b>Subtotals</b>	<b>1,971</b>	<b>1,993</b>	<b>1,992</b>	<b>2,032</b>	<b>2,168</b>	<b>2,159</b>		
<b>Select Committees</b>								
Aging	36	35	38	37	38	36		
Children, Youth & Families	23	20	20	18	20	19		
Hunger	16	16	11	14	16	16		
Intelligence	20	21	22	26	25	27		
Narcotics Abuse & Control	16	17	13	17	18	16		
<b>Subtotals</b>	<b>109</b>	<b>106</b>	<b>102</b>	<b>111</b>	<b>117</b>	<b>112</b>		
<b>Totals</b>	<b>2080</b>	<b>2101</b>	<b>2,094</b>	<b>2,143</b>	<b>2,285</b>	<b>2,271</b>		

Sources: Various CRS documents or Clerk of the House Report: 1979-1988. CRS report *House and Senate Committee Inquiry Funding and Staffing Authorizations: 1979-1994* by Lorraine Tong, Adela Faber, and Frederick H. Paula. April 22, 1993. p. 7-10.

1. Includes staff for the House Information System (computer center).

Table 3. Senate Committee Recurring Funding Authorizations<sup>1</sup>

Congresses & Years	96th Congress 1979	96th Congress 1980	97th Congress 1981	97th Congress 1982	98th Congress 1983	98th Congress 1984	98th Congress 1985	99th Congress 1986
<b>Standing Committees</b>								
Agriculture	756,000	813,000	1,322,000	1,309,000	1,363,825	1,390,885	1,300,500	1,263,379
Appropriations	782,271	836,078	3,791,203	3,780,310	4,080,310	4,317,500	4,117,385	3,999,860
Armed Services	763,900	976,000	1,554,400	1,607,807	1,907,807	2,239,919	2,158,810	2,097,190
Banking	1,137,600	1,193,000	1,583,411	1,563,411	1,704,116	1,806,300	1,660,768	1,613,364
Budget	2,366,500	2,432,900	2,693,632	2,645,961	2,945,961	3,197,971	2,958,298	2,873,857
Commerce	2,627,800	2,652,800	3,171,746	3,161,746	3,461,746	3,648,174	3,312,233	3,217,690
Energy	1,465,000	1,583,700	2,029,259	2,102,840	2,338,584	2,524,777	2,397,763	2,329,322
Environment	1,787,900	1,828,000	2,166,000	2,213,000	2,373,286	2,550,000	2,333,631	2,267,021
Finance	1,019,600	1,049,600	2,063,200	2,116,200	2,223,306	2,379,000	2,217,073	2,153,790
Foreign Relations	1,464,000	1,782,300	2,333,100	2,404,912	2,540,911	2,732,275	2,434,509	2,365,019
Government Affairs	4,328,100	4,610,800	4,672,526	4,432,426	4,574,249	4,964,523	4,440,229	4,313,488
Judiciary	4,735,900	5,168,700	4,398,692	4,398,223	4,451,074	4,670,827	4,246,242	4,125,039
Labor	2,753,000	2,940,000	4,004,000	4,046,000	4,368,300	4,852,500	4,453,130	4,326,021
Rules	695,000	715,900	1,273,800	1,243,833	1,298,033	1,340,195	1,229,446	1,194,353
Small Business	326,900	333,812	902,000	897,000	934,680	1,001,678	926,220	899,782
Veterans Affairs	269,000	269,000	748,630	784,438	852,029	935,357	887,069	861,749
<b>Subtotals</b>	<b>27,278,471</b>	<b>29,185,590</b>	<b>36,707,399</b>	<b>38,709,107</b>	<b>41,418,217</b>	<b>44,551,881</b>	<b>41,078,806</b>	<b>39,901,924</b>

Table 3. Senate Committee Recurring Funding Authorizations<sup>1</sup>

Congresses & Years	96th Congress 1979	96th Congress 1980	97th Congress 1981	97th Congress 1982	98th Congress 1983	98th Congress 1984	99th Congress 1985	99th Congress 1986
<b>Special/Select Committees</b>								
Aging	325,300	342,600	901,946	901,946	1,036,131	1,159,720	1,072,116	1,041,514
Ethics <sup>2</sup>	-	-	-	-	-	-	-	-
Indian Affairs	621,600	630,360	567,324	600,210	745,188	836,628	814,032	790,797
Intelligence	1,799,500	1,856,000	1,760,000	1,728,106	1,882,407	2,064,000	1,918,904	1,864,131
POW/MIA	NA	NA	NA	NA	NA	NA	NA	NA
Subtotals	2,746,000	2,828,960	3,229,270	3,230,268	3,663,726	4,060,348	3,805,052	3,698,442
Totals	30,024,871	32,014,550	41,936,269	41,938,875	45,081,943	48,612,229	44,878,358	43,597,366

Table 3. Senate Committee Recurring Funding Authorizations<sup>1</sup>

Congresses & Years	100th Congress 1987	100th Congress 1988	101st Congress 1989	101st Congress 1990	102nd Congress 1991	102nd Congress 1992	103rd Congress 1993	103rd Congress 1994
<b>Standing Committees</b>								
Agriculture	1,434,873	1,719,586	1,876,650	1,914,132	1,981,783	2,064,457	1,932,632	1,973,136
Appropriations	4,209,856	4,119,856	4,736,267	4,828,540	4,879,959	5,058,867	4,861,162	4,961,810
Armed Services	2,447,184	2,490,812	2,728,969	2,785,811	3,024,631	3,143,243	2,819,419	2,880,344
Banking	1,659,572	1,690,000	2,181,016	2,226,729	3,253,043	3,374,143	3,153,964	3,220,767
Budget	2,970,655	3,022,846	3,313,130	3,382,402	3,382,402	3,526,693	3,424,833	3,499,838
Commerce	3,322,736	3,379,375	3,694,395	3,769,571	3,769,571	3,930,949	3,809,967	3,890,947
Energy	2,405,168	2,446,068	2,673,547	2,727,832	2,727,832	2,844,527	2,756,636	2,815,535
Environment	2,341,434	2,381,014	2,604,115	2,657,355	2,701,485	2,804,715	2,687,023	2,744,197
Finance	2,458,333	2,503,993	2,754,692	2,814,065	3,461,745	3,559,803	3,349,255	3,419,392
Foreign Relations	2,442,798	2,438,915	2,666,656	2,721,004	2,774,561	2,891,437	2,749,434	2,808,864
Government Affairs	4,453,972	4,529,719	4,951,018	5,051,556	5,056,605	5,267,105	5,104,467	5,213,729
Judiciary	4,262,841	4,336,859	4,748,545	4,846,789	4,979,958	5,171,893	4,906,405	5,013,474
Labor	4,471,270	4,549,148	4,981,973	5,085,260	5,361,330	5,595,597	5,146,224	5,257,570
Rules	1,243,558	1,304,043	1,430,672	1,459,163	1,459,163	1,521,403	1,478,578	1,511,163
Small Business	956,048	972,617	1,012,941	1,035,734	1,047,108	1,094,447	1,134,791	1,156,079
Veterans Affairs	949,401	1,001,553	1,123,937	1,148,131	1,202,351	1,252,528	1,171,401	1,196,647
<b>Subtotals</b>	<b>42,029,699</b>	<b>42,886,404</b>	<b>47,478,523</b>	<b>48,454,074</b>	<b>51,043,527</b>	<b>53,091,507</b>	<b>50,486,191</b>	<b>51,563,482</b>



Table 3. Senate Committee Recurring Funding Authorizations<sup>1</sup>

Congresses & Years	100th Congress 1987	100th Congress 1988	101st Congress 1989	101st Congress 1990	102nd Congress 1991	102nd Congress 1992	103rd Congress 1993	103rd Congress 1994
<b>Select/Special Committees</b>								
Aging	1,077,424	1,094,591	1,200,008	1,213,792	1,213,792	1,239,556	1,184,439	1,209,141
Ethics <sup>2</sup>	-	-	-	-	-	-	-	-
Indian Affairs	1,142,335	916,501	1,001,712	1,021,116	1,239,193	1,284,371	1,197,940	1,221,872
Intelligence	1,963,054	2,105,072	2,305,816	2,353,721	2,356,636	2,453,497	2,381,615	2,433,624
POW/MIA	NA	NA	NA	NA	540,300	1,360,200	NA	NA
Subtotals	4,182,813	4,114,164	4,501,536	4,588,629	5,349,921	6,337,624	4,763,994	4,864,637
<b>Totals</b>	<b>46,212,512</b>	<b>47,000,568</b>	<b>52,028,059</b>	<b>53,042,703</b>	<b>56,413,448</b>	<b>59,429,431</b>	<b>55,250,185</b>	<b>56,428,119</b>

NA = not in existence.

1. Funding levels reflect total funds for Senate committees from 1981 on and for each year include supplemental funds. For 1979-1980 funding levels do not include statutory funds. Figures, however, exclude non-recurrent authorizations and carry-over surplus spending authority. Data are from Senate Rules calendars as corrected by the Committee on May 14, 1993.

2. The Select Committee on Ethics draws funds from the contingent fund of the Senate as needed.

Table 4. Senate Committee Staffing									
Congress & Year	96th Congress 1979	96th Congress 1980	97th Congress 1981	97th Congress 1982	98th Congress 1983	99th Congress 1984	99th Congress 1985	99th Congress 1986	
Standing Committees									
Agriculture	30	32	32	33	32	31	30	26	
Appropriations	81	83	74	76	76	80	81	81	
Armed Services	28	31	35	36	38	40	46	46	
Banking	37	43	38	34	34	29	32	31	
Budget	82	85	71	70	76	69	73	68	
Commerce	91	86	85	95	87	89	86	82	
Energy	55	54	49	50	53	53	48	46	
Environment	72	60	52	53	54	52	50	50	
Finance	41	42	46	50	46	48	55	56	
Foreign Relations	67	65	61	64	60	62	59	55	
Governmental Affairs	106	155	116	123	121	117	107	101	
Judiciary	183	191	137	123	129	137	126	121	
Labor	124	122	103	124	141	97	62	117	
Rules & Administration	32	33	29	27	29	26	28	26	
Small Business <sup>1</sup>	13	13	23	25	26	22	31	20	
Veterans Affairs	23	24	23	31	21	21	22	25	
Subtotals	1,137	8,105.00	974	1,004	1,027	978	945	954	

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Table 4. Senate Committee Staffing								
Congress & Year	96th Congress 1979	98th Congress 1980	97th Congress 1981	97th Congress 1982	98th Congress 1983	98th Congress 1984	99th Congress 1985	99th Congress 1986
Select/Special Committees								
Aging	9	22	27	28	28	31	33	33
Indian Affairs	19	19	16	18	20	20	22	22
Intelligence	49	50	44	42	41	42	43	45
POW/MIA	NA	NA	NA	NA	NA	NA	NA	NA
Subtotals	77	91	87	88	89	93	98	100
Totals	1,204	1,212	1,061	1,092	1,116	1,066	1,048	1,064

Table 4. Senate Committee Staffing

Congresses & Years	100th Congress 1987	100th Congress 1988	101st Congress 1989	101st Congress 1990	102nd Congress 1991	102nd Congress 1992	103rd Congress 1993	103rd Congress 1994 <sup>a</sup>
<b>Standing Committees</b>								
Agriculture	30	38	40	41	37	37	45	45
Appropriations	75	73	80	78	81	76	82	82
Armed Services	46	47	49	49	50	51	52	52
Banking	33	32	47	51	54	54	61	61
Budget	67	60	66	69	66	57	83	83
Commerce	78	78	79	76	76	76	89	89
Energy	49	46	50	51	49	49	57	57
Environment	46	48	50	49	46	41	56	56
Finance	55	52	56	59	62	61	62	62
Foreign Relations	56	57	55	64	67	65	58	58
Governmental Affairs	88	93	105	112	100	112	120	120
Judiciary	103	106	114	126	137	122	128	128
Labor	99	101	110	112	94	126	124	124
Rules & Administration	27	28	27	28	27	25	26	26
Small Business	23	20	24	23	20	26	26	26
Veterans Affairs	23	24	27	22	25	23	23	23
<b>Subtotals</b>	<b>902</b>	<b>906</b>	<b>979</b>	<b>1,004</b>	<b>993</b>	<b>1,000</b>	<b>1,092</b>	<b>1,092</b>

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## Congress of the United States

JOINT COMMITTEE ON  
 THE ORGANIZATION OF CONGRESS  
 ROOM 175D FORD HOUSE OFFICE BUILDING  
 Washington, DC 20515-6775

TO: Joint Committee on the Organization of Congress

SUBJECT: Congressional Informal Groups: Caucuses and LSOs

## OVERVIEW

Congressional informal groups are as old as the Congress itself. While the Nation's legislative branch throughout its history has abounded with a variety of caucuses, rarely have the experiences of these ad hoc groups been chronicled in systematic fashion. However, the polity changed in the years after the Second World War and so did caucuses. The Democratic Study Group, established in 1959, heralded the era of a new type of caucus. They took on permanence, stability, and regularized procedures; many developed into bicameral and bipartisan groups.

The proliferation of caucuses led to House regulations in 1982 to insure their ethical and financial propriety; these regulations, in operation today, created a subset of caucuses: the Legislative Service Organizations (LSOs). Those caucuses which agree to abide by a set of regulations, including the submission of a quarterly report to the Clerk of the House, are granted the LSO designation by the House Administration Committee. LSOs may assess dues from its members, which are collected by the Clerk of the House and used as a dependable resource to pay LSO staff and administrative costs; LSOs are also entitled to House office space and use of equipment.

The 1982 regulations did not mute the debate over caucuses in general or over the financial conduct of the LSOs in particular. The many caucuses of the 103rd Congress, of which nearly a third are bicameral, provoke inquiry in many areas including the LSO/institute nexus; the LSO use of House allowance funds; and caucus influence in the public policy process.

During the 102nd Congress, a total of 140 caucuses were in existence; their activity varied from minimal to energetic. Of these 140 caucuses, 42 were bicameral, 30 were LSOs and 25 were exclusively composed of Senate members. The authoritative listing of caucuses for the 103rd Congress is currently being prepared by the CRS and should be available in June. (See Attachment I for a listing of the caucuses of the 102nd Congress.)



## THE HISTORICAL CONTEXT

The most illustrious ancestor of the contemporary Congressional caucus was the boardinghouse of Jeffersonian Washington. In the early years, government employees in the Capital lived near where they worked and socialized almost exclusively with fellow colleagues from the executive, legislative or judicial branch. Boardinghouses provided living arrangements for Members of Congress and it was here that Members got together informally to discuss the issues of the fledgling Nation.

With the demise of the boardinghouse living arrangements, informal legislative groups did not disappear. To be sure, scattered references to informal groups can be found in more comprehensive studies of Congress and in anecdotal recollections of Members themselves; however, no systematic search has been conducted on the origins or development of Congressional informal groups. Although informal groups have been part of the U. S. Congress since colonial times, they remained evanescent configurations for over two hundred years, easily emerging and passing from the Congressional stage.

A change began to take place with informal groups in the 1960s which ultimately led to both systematic research on caucuses and internal regulation. This changing nature of caucuses is reflected in the story of the Democratic Study Group (DSG) which traces its roots to the mid 1950s. Indeed, the DSG is considered the vanguard of the contemporary caucus, characterized by a proclaimed statement of purpose, a definitive membership list, and in some cases a staff, subunits and automatic procedures.

The 1960s welcomed two more caucuses: the House Wednesday Group (the original Republican counterpart to the DSG) and the Members of Congress for Peace Through Law (MCPL), the first bicameral and bipartisan caucus; (in 1984 the MCPL changed its name to the Arms Control and Foreign Policy Caucus). Both groups are in existence today.

The 1970s was a time of historic change for Congress. Caucuses were not addressed by the reform movement of that era but they institutionalized and flourished in a nurturing environment. In 1974 there were ten caucuses, by 1980 caucuses numbered 57, and for the 102nd Congress the list had almost tripled to 140. (See Attachment I for the listing of caucuses from the 102nd Congress).

## REGULATION OF CAUCUSES

### The Obey Commission

The Commission on Administrative Review, often referred to as the Obey

Commission after its chairman, Rep. David R. Obey (D-WI), was established in July, 1976; its charge was ambitious: to study staffing, accounting and purchasing, office equipment procurement and use, communications, travel allowances and any other matter pertaining to the operations of the House. Caucuses were not a major focus of the Commission but the topic was addressed.

The Commission found that the House had responded in a variety of ways to the increased complexity and volume of its workload, one of which was the development of "nonofficial groups." For the first time, caucuses were officially recognized and defined. "A number of nonofficial or ad hoc groups have formed to assist Members in carrying out their responsibilities. Especially since 1970, the number of such groups has increased rapidly. Groups form along party lines and around issues; some include both House and Senate Members. About 20 ad hoc groups are presently active." (Final Report of the Commission on Administrative Review, H. Doc. 95-272, p. 617.)

In its final report to the House, the Obey Commission recommended that all ad hoc Member groups which receive private financial assistance file an annual report with the House of Representatives detailing certain information. In this way these groups would be held accountable for their use of staff, office space, and equipment financed with public funds. Additionally, the ad hoc entities were offered the designation of Legislative Service Organization (LSO) provided certain criteria, including size and dues structure and *the prohibition of receipt of all private donations*, were met. An LSO, funded by an account set up in the office of the House chief financial officer, to which LSO members would contribute a certain minimal amount, would be able to maintain an independent and dedicated staff. Salaries of the LSO staff would be paid directly by the House; furthermore, the House would provide office space to the LSO.

Although the Obey Commission recommendations, submitted as H. Res. 766, were rejected by the House in September, 1977, several key milestones for informal groups were passed. The Commission recognized that the informal groups of the 1970s were somehow different from the secret, almost mythical, social clubs such as the Chowder and Marching Club, the Acorns, and SOS, and were also distinguishable from the ephemeral groupings of Members that are a part of any legislative chamber's life. Secondly, the Obey panel was concerned about the appearance of impropriety in the commingling of House and private funds by some caucuses. And finally, official sanction should be bestowed on those groups which met certain restrictions.

### The Regulations of 1979

Two years later in 1979, the House Administration Committee revisited the question of caucuses and issued regulations for the first time governing Legislative Service Organizations. An LSO was officially defined as "any organization, committee, commission, coalition, caucus or similar group consisting in whole or in part of Members of the House, designed primarily to provide legislative services and assistance to

Members of such organizations, which has no official status under the Rules of the House or the Majority or Minority caucuses, but receives, directly or indirectly, support from the House of Representatives" and which agreed to abide by certain organizational, financial and operational requirements specified in the regulations. Absent from these regulations was a prohibition on the receipt of outside funds. *Thus, LSOs became a subset of the wider group of informal caucuses.*

#### The Ratchford Subcommittee Development of Current Regulations

In response to the public revelation of possible financial improprieties regarding LSOs, the House Administration Committee established an Ad Hoc Subcommittee on Legislative Service Organizations in September, 1981. This subcommittee, chaired by Rep. William Ratchford (D-CT), focused its attention on two issues: LSO compliance with the existing regulations and the advisability of prohibiting LSO receipt of outside funds. While no misuse of financial resources was found, the Subcommittee recognized that LSO fundraising created the appearance of impropriety.

Accordingly, the Ratchford subcommittee drafted new regulations which banned the receipt of outside funding by *any* informal group; required every informal group which continued to receive outside funding to remove itself from the House and its buildings; and tightened reporting requirements for the LSOs. These regulations were accepted with little revision by the full Committee and went into effect with the 98th Congress in 1983. These regulations, very similar to the original Obey recommendations, are in force today and apply to the 26 House and bicameral groups of the 103rd Congress certified by the House Administration Committee as LSOs. (See Attachment II for the current regulations).

Although the Ratchford Subcommittee was aware of the close association of certain LSOs with research organizations known as institutes, the panel did not interpret its mandate as extending to institutes. Nevertheless, the Subcommittee recommended that the LSO/institute nexus be closely examined in the near future. The new regulations did succeed in moving those institutes, which enjoyed House office space under protection of its mentor LSO, from the grounds of the US Capitol. This relocation was demanded by the new prohibition of LSO receipt of private funds.

#### The Bates Task Force

In 1988, the House Administration Committee created a Task Force on Legislative Service Organizations, chaired by Rep. Jim Bates (D-CA). The recommendations made by this Task Force were never taken up by the full committee. Furthermore, the content of these recommendations is difficult to discern due to the fact that they were never printed.

### FY 1993 Legislative Branch Appropriations Act

Under a provision of the FY 1993 Legislative Branch Appropriations Act, the GAO is required to develop new accounting standards for the existent LSOs. The GAO on May 6, 1993, briefed the House Administration staff and two Republican members of the Committee (Rep. Pat Roberts and Rep. John Boehner) on draft standards. Once the drafting process is completed, the GAO will ask for formal comment on the recommended standards.

The House Administration Committee has been working independently with LSO directors on its own plan to bring LSO operations under more stringent accounting practices. However, this effort has been put on hold until the GAO completes its work.

### Summary

The 1982 House Administration regulation of caucuses, or informal groups, was the product of an effort to remove from these groups the appearance of financial or ethical improprieties. The regulation created a subset of caucuses: the Legislative Service Organization. LSOs are informal groups which have the ability to adopt a regularized means of financial support allowing them to maintain a permanent staff paid by the dues of the caucus members. Most LSOs opt for this financial mechanism. However, a small number of caucuses seek LSO designation as a protection against the appearance of misconduct or simply as a stature-enhancing device. Therefore, it is possible to be an LSO but collect no dues and, therefore, to have no dedicated staff or individual office. In the 103rd Congress, 26 have LSO designation; of these, the Populist Caucus, the Space Caucus and the 98th Democratic Members Caucus have no dues. (See Attachment III for the current LSOs). There have been no LSO designations by the House Administration Committee since 1983.

## **CURRENT ISSUES**

### The Caucus/Institute Nexus

The current regulations prohibit the receipt of private funding by any informal group, including LSOs; the practical effect of this requirement was the removal from the grounds of the US Capitol certain research organizations, known as institutes, which enjoyed House space courtesy of its sponsoring caucus. Institutes are policy advocacy groups which use their considerable private resources to press a legislative agenda; their activities include research, grass roots campaigning, and legislative strategizing. These organizations thrive on the infusion of large amounts of private donations. However, the regulations do not address the continued close association of caucuses with these research institutes.



The linkage between caucuses and institutes is a cause of concern to many; they argue that Members of caucuses with associated institutes have access to resources their fellow House Members do not, and can, therefore, press a legislative agenda more effectively. Others are concerned that donors to an institute are seeking access to the associated Members and, therefore, the specter appears of money buying influence or at least access. The distinction between an institute contribution and a campaign contribution is blurred. Indeed, many Members sit on the board of institutes which are perpetually in the fundraising mode. Whatever the cause of concern regarding the caucus/institute connection, the connection is worrisome and prompts many to predict that the institutes are a scandal waiting to happen.

The GAO in its preliminary draft of new accounting standards addresses the relationship of LSOs with outside institutes. The draft standards would require the LSOs to reveal affiliations with these institutes, and to report on shared staff. Currently, the relationships are not reportable and in effect difficult to determine. Recent research indicates that nine institutes affiliated with caucuses are in operation.

### LSO Use of House Funds

Certain informal caucuses have sought and received from the House Administration Committee the LSO designation -- in the 103rd Congress 26 caucuses are so designated. The LSO designation allows member dues to be collected by the House financial officer from the Members' expense accounts and used to pay a dedicated staff; alternatively, LSO designation allows a Member belonging to that LSO to use a portion of his clerk/hire account to pay for LSO staff. LSO designation also entitles the LSO to separate House office space and equipment. Indeed, the House Ford Office Building is peppered with the offices of LSOs.

LSOs are not required to follow general accounting procedures nor are they required to follow the financial procedures adhered to by committee and Member offices. The present regulations do not require an accurate reflection of the transaction of LSO funding -- funding which in all cases is derived from House accounts. This situation has led some to assert that certain LSOs may be inadequate bookkeepers or even mispenders of public funds. Indeed, in testimony before the Joint Committee on the Organization of Congress on May 6, 1993, Rep. Pat Roberts (R-KS) suggested that there is a vast discrepancy between receipts and expenditures of most LSOs over the past ten years and urged remedial action to be taken before the financial conduct of LSOs causes another institutional embarrassment. Others have recommended that LSOs should be submitted to the same vouchering system as Member offices and committees since the LSOs are using money from the clerk/hire and expense accounts.

The GAO in its draft accounting standards for LSOs addresses the "sloppy" bookkeeping procedures that obscure how public funds are spent. The GAO



recommends that LSOs file standard annual financial statements in lieu of the currently required quarterly reports which have been heretofore submitted in a haphazard manner. Furthermore, these statements should conform to a prescribed form and content.

### Caucuses As Additional Staff

There is some concern both in the halls of Congress and beyond the confines of Capitol Hill that Congressional staff is bloated and consequently should be reduced. If reductions in personnel must be made, many argue that LSO staff is an easy first cut. They reason that official staff belonging to the party structure, the committees and the personal offices perform duties more critical to the functioning of the Congress than the staff associated with the unofficial LSOs. Others counter that LSO staff is small in comparison with staff assigned to official components, and further that LSO unofficial status cannot be equated with unimportant functions.

Relatedly, suggestions have been made that the information function performed by the Democratic Study Group (DSG) be done by units of the House Democratic party and that Republicans likewise absorb the information support function of the Republican Study Committee (RSC). These two LSOs are prodigious research centers, and many Members rely upon their reports and analyses. Furthermore, the DSG and the RSC are in actuality quasi-party bodies in that many Members believe that they are already part of the organization of the Congressional parties.

### The Differences Between House and Senate Practices on Caucuses

The story of caucuses and LSOs to a large degree is the story of the House. Contemporary caucuses began in the House and there they flourished. To be sure, there are Senate caucuses but they have neither become as institutionalized as those in the House nor have they grown in such abundance.

This divergent development can be traced to two things. First, the culture and distinct chamber identity of the Senate precludes a perceived need for caucuses. For example, the rules of the Senate allow members to serve on many more committees and subcommittees than the House, making it unnecessary to seek out caucus membership to demonstrate one's commitment to an issue or cause. Furthermore, the fiercely guarded individualism of each Senator works against associational attachments. Second, the regulations of the Senate prohibit the assignment of separate office space for a caucus or other unofficial entity.

While not a priority item, some have suggested that the House and Senate develop analogous rules with respect to caucuses. Others say that the current differences promote bicameral caucuses which in turn enhance inter-chamber communication.

### The Role of Caucuses in the Policy Process

Caucuses can perform an array of functions including agenda activity, setting the parameters of debate through their prodigious research efforts, affecting the votes of members, mobilizing voting coalitions across party and committee lines, and even drawing together the executive and legislative branches. Caucuses in some cases have made coalition building easier and therefore have facilitated the work of the committee chairmen and party leaders. Supporters applaud caucuses and the work they perform.

Others, on the other hand, insist that caucuses further splinter an already decentralized and fractured institution, making policy formulation all the more difficult. Research has indicated that some committee leaders dismiss caucuses as bothersome and as an unwanted incursion into committee prerogatives.

Perhaps the most direct attack on the caucus is launched by those who insist that caucuses have little to do with public policy and much to do with advertising and credit claiming in the Member's district. Caucuses, in this view, are a manifestation of district attentiveness which detracts from the ability of Congress to work for the common good. In contradistinction, others insist that a Member's primary focus should be the district and caucuses enhance this focus.

## CAUCUSES OF THE 102ND CONGRESS

(This list is reproduced from the CRS Report 92-527 GOV, entitled "Caucuses and Legislative Service Organizations of the 102nd Congress: An Informational Directory," by Sula P. Richardson; May 22, 1992).

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<i>Afghanistan, Congressional Task Force on</i>	39
Agricultural Caucus, Northeast	20
Agricultural Forum, Congressional	10
Air and Space Caucus, Senate	24
Alcohol Fuels Caucus, Congressional	32
<i>Angola, House Task Force on</i>	18
Animal Welfare Caucus [House]	9
Animals, Congressional Friends of	32
Anti-Terrorism Caucus, Senate	24
Arab Boycott, Congressional Task Force to End the	16
Arms Control and Foreign Policy Caucus (LSO)	
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Army Caucus	9
Arts Caucus, Congressional (LSO)	33
Arts, Concerned Senators for the	24
Automotive Caucus, Congressional (LSO)	10
Aviation Forum, Congressional	10

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Baltic Nations and Ukraine, Ad Hoc Congressional Committee on the	31
Bearing Caucus, Congressional [House]	11
Beef Caucus, House	11
Beef Caucus, Senate	25
Biomedical Research Caucus, Congressional	11
Biotechnology Caucus, Congressional	33
Bipartisan Caucus for National Health Care Reform	9
Bipartisan Veterans Health Care Coalition	9
Black Caucus, Congressional (LSO)	33
Boating Caucus, Congressional	11
"Boll Weevils" [See: Conservative Democratic Forum]	5
Border Caucus, Congressional [House]	12
<i>Border Caucus, Senate</i>	25
Boycott, Congressional Task Force to End the Arab	16

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<sup>28</sup> Caucuses whose names appear in italics are those which were confirmed as abolished or inactive, or those which have undergone a change in name as noted.

Budget, Congressional Leaders United for a Balanced (CLUBB) .....	38
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PR/jt



**Current Regulations Governing  
Legislative Service Organizations**

appearing in the

Report of the Ad Hoc Subcommittee  
on Legislative Service Organizations

of the

Committee on House Administration

97th Congress

June 24, 1982

from pages 13-15:

**REGULATIONS ADOPTED BY THE COMMITTEE ON HOUSE  
ADMINISTRATION ON OCTOBER 21, 1981**

**LEGISLATIVE SERVICE ORGANIZATIONS**

A Legislative Service Organization is a grouping of Members who pool resources to pursue a common legislative goal. The organization thus formed operates as an extension of their individual offices, and coordinates their efforts for reasons of efficiency and effectiveness. Since such organizations are extensions of Members' offices, the staff may be paid from the Clerk Hire Allowance and administrative costs may be paid in the form of dues or assessments from the Allowance for Official Expenses. Members are allowed to pay dues or assessments from personal funds or their Allowances for Official Expenses to insure a dependable resource to pay fluctuating administrative costs, the management of which would otherwise be burdensome to the membership.

1. For purposes of this regulation a Legislative Service Organization is defined as any congressional caucus, committee, coalition or similar group which—

(a) Consists solely of Members of the House or Members of the House and Senate;

(b) Is operated solely to provide legislative services or other assistance to the Members thereof in the performance of their official duties;

(c) Receives support from Members of Congress via their allowances, or from the House itself in the form of office space, furniture, furnishings, telephone service, etc.;

(d) Receives no income or contributions, either in cash or in-kind, from any source other than the Congress or its Members, except as noted in paragraphs 3 and 8;

(e) Is neither incorporated nor holds a separate tax-exempt status under the Internal Revenue code;

(f) Is sponsored by 30 Members of the House or two-thirds of the organization's total membership, whichever is less, who shall attest, in a statement filed with the Committee on House Administration at establishment and by May 1 of each even-numbered year thereafter, that the organization is to provide bona fide legislative services or assistance which supports them in the performance of their official duties.

2. Any organization which the Committee on House Administration determines meets the criteria set forth in paragraph 1 shall be granted status as a Legislative Service Organization by the Committee on House Administration and shall comply with all applicable regulations and House Rules.

3. Legislative Service Organizations may take advantage of educational intern, fellowship or volunteer programs when the programs are primarily of educational benefit to the participating interns, fellows or volunteers. However, the Legislative Service Organization may not raise, receive or disburse any private contributions for programs associated with it.

4. Any caucus, committee, coalition or similar group organized to provide legislative service which receives contributions or any form of income, either direct or in-kind, from any source other than the Congress or its Members (except as noted in paragraphs 3 and 8) shall not be located in space under control of the House and shall receive no other support from the House or from Members of the House via their allowances.

5. Any Legislative Service Organization which pays its employees directly in addition to or instead of paying them through clerk-hire provided by Members, shall withhold Federal income and F.I.C.A. taxes and shall forward such amounts to the U.S. Treasury as required by law, and shall pay such employer F.I.C.A. taxes and D.C. unemployment compensation taxes as are required by Federal and D.C. statutes. However, the total sum paid to any employee from all sources shall not exceed the highest rate of basic pay, as in effect from time to time, of level IV of the Executive Schedule in section 5315 of title 5, United States Code.

6. When a Member authorizes a person working for a legislative service organization to be compensated in part or in full from said Member's Clerk Hire Allowance, the Clerk of the House shall disburse salary payments to such employee only upon a monthly certification by said Member of the identification of the legislative service organization for which the employee has performed duties. This certification shall be included as part of the Member's monthly Clerk Hire Allowance certification. And, in addition, the Clerk of the House shall disburse salary payments from the Clerk Hire Allowance of said Member to such person only upon a monthly certification by the Chairman or Ranking House Member of the organization as to the amount of said salary, the performance of assigned official duties in Washington, D.C., the identification of said Member, and the relationship, if any, of each employee to any current Member of Congress.

7. A Legislative Service Organization which collects dues or assessments from its Members may not use such dues or assessments to generate additional income from other sources (e.g. interest bearing accounts, certificates of deposit, etc.).

8. Legislative Service Organizations may distribute to Members of Congress any report, analysis or other research material prepared in whole or in part by persons other than persons employed by said Legislative Service Organization. However, the identity of the person and/or organization which prepared or assisted in the preparation of said research material shall be fully disclosed thereon.

9. Each Legislative Service Organization shall submit a quarterly report to the Clerk of the House not later than 30 days after the end of the reporting period which shall be available to the public through the Office of Records and Registration. Each report shall contain:

(a) The name, business address, officers and number of Members of the organization;

(b) Total receipts for the quarter including clerk-hire, and a summary of said receipts by category (e.g., clerk-hire, or dues);

(c) Total disbursements for the quarter plus a listing of the recipient, purpose and amount of all disbursements in excess of \$200 in the aggregate during the quarter;

(d) A listing of the name, business address, and job title of all persons employed by the organization, their total compensation during the quarter and the dates of their employment;

(e) Name and sponsor of all interns, fellows or volunteers associated with the Legislative Service Organization under the provision of paragraph 3 of these regulations;

(f) A general description of the legislative services or other assistance which the Legislative Service Organization provided to its members during the quarter;

(g) A listing of all reports, analyses or other material provided to members during the quarter which were prepared in whole or in part by persons other than persons employed by said Legislative Service Organization, and the identity of the person and/or entity which provided such assistance; and

(h) A copy of the sponsorship statement required by subparagraph 1(f).

10. This regulation shall not apply to informal pool arrangements whereby Members share staff in accordance with other regulations promulgated by the Committee on House Administration governing the use of Member's Clerk Hire.

11. The effective date of these regulations shall be January 1, 1983, except that the provisions of paragraph 9 a through g shall be effective January 1, 1982 and the reporting requirements of paragraph 9b shall include the reporting of receipts from all sources by category and by specific source when in excess of \$200 in the aggregate during the quarter.

12. Organizations intending to seek certification under these regulations shall make an irrevocable election to the Committee on House Administration by January 1, 1982, and the provisions of Section 1(d) of these regulations will be applicable immediately, except for subscription income from ongoing publications.

13. Adopted by the Committee on House Administration on October 21, 1981.

**LEGISLATIVE SERVICE ORGANIZATIONS****103rd CONGRESS<sup>1</sup>**

Arms Control and Foreign Policy Caucus  
Arts Caucus  
Automotive Caucus  
Black Caucus  
Border Caucus  
California Democratic Congressional Delegation  
Clearinghouse on the Future  
Democratic Study Group  
Environmental and Energy Study Conference  
Export Task Force  
Federal Government Service Task Force  
Hispanic Caucus  
House Wednesday Group  
Human Rights Caucus  
New York State Congressional Delegation  
98th Democratic Members Caucus  
Northeast-Midwest Congressional Coalition  
Pennsylvania Congressional Delegation  
Populist Caucus  
Republican Study Committee  
Rural Caucus  
Space Caucus  
Sunbelt Caucus  
Textile Caucus  
Travel and Tourism Caucus  
Women's Issues

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<sup>1</sup>Source: House Administration Committee.

# CRS Report for Congress

## Minority Staffing: A Chronological History

Judy Schneider  
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Government Division

March 19, 1990



Congressional Research Service • The Library of Congress



**MINORITY STAFFING: A CHRONOLOGICAL HISTORY****SUMMARY**

The partisan distribution and hiring of committee employees has been, and remains today, a controversial topic. Although the number of employees allocated to each committee has grown since the acknowledgement of the right and the provision of the staff to the minority, the allocation of staff to the minority has not necessarily kept pace. This report provides a chronological history of minority staffing in the House and the Senate from 1946 through 1989. It shows that minority staffing was regularly proposed and debated in the 1950s and 1960s, was partially secured in the Legislative Reorganization Act of 1970, appears to have been settled for now in the Senate, but continues to be an issue in the House.

## MINORITY STAFFING: A CHRONOLOGICAL HISTORY

### INTRODUCTION

The Legislative Reorganization Act of 1946, which is generally acknowledged to have created the modern staffing structure, stated that "staff members shall be assigned to the chairman and ranking minority member of each committee as the committee may deem advisable." The Act also allowed each committee to hire four permanent professional staff and six permanent clerical staff (the distinctions between these two categories have sometimes been semantic). Pursuant to that language, each chairman exercised considerable flexibility in determining staff allotments for the minority party. Although the system remained unchanged, by the early 1960s House Republicans began a campaign for additional staff resources. By the 1970s, some changes were made.

The Legislative Reorganization Act of 1970 provided that most House and Senate committees were to receive six permanent professional staff, up from the four previously allowed under the 1946 Act. The minority party was entitled to hire two of the six professionals and one of the six clerical employees.

Under the Committee Reform Amendments of 1974 (Bolling Select Committee on Committees) the size of permanent committee staffs in the House was increased. Professional staff went from 6 to 18, while clerical employees grew from 6 to 12. The minority was entitled to hire one-third from each category, six professional and four clerical staff. However, when the Democratic Caucus met in 1975, the one-third allocation for statutory staff was nullified. Instead, the Caucus agreed that subcommittee chairmen and ranking minority members could hire one staffer each to work on their subcommittees (up to a maximum of six subcommittees). In addition, these staff were supplemented by employees hired pursuant to committee funding resolutions (so-called investigative staff). These employees have never been subject to the one-third rule, although the issue has been debated for years.

Simultaneously, in the Senate in 1975, under S. Res. 60, each Senator was authorized to hire up to three committee assistants. Two years later, pursuant to the Committee System Reorganization Amendments (Stevenson Select Committee to Study the Senate Committee System), committees were required to set staff sizes in proportion to the ratio of majority to minority members on the committee, with the minority always entitled to "at least one-third" of the funds for all staff. With the effect of the 1977 changes to be implemented in 1981, the Senate in 1980 directed its committees to submit a single budget for all expenses, thereby eliminating the distinction among types of staff and guaranteeing the minority at least one third of all staff resources.

In the 1980s House Republicans again questioned staff allocations to the minority. In recent years the issue of minority staffing allocation has seen

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renewed interest and controversy especially regarding "investigative" staff. This report chronicles the history of minority staffing.

**CHRONOLOGY<sup>1</sup>**

**1946:** Passage of Legislative Reorganization Act of 1946, which provided for the appointment of four professional and six clerical staff for each standing committee of the House and Senate (excluding the Appropriations Committee in each chamber, for which no limits, restrictions or requirements were specified) on the basis of "merit" and not political or party affiliation. Concerning the six clerical employees, it was the intent of the Joint Committee on the Organization of the Congress that two would be "attached" to the chairman, two to the ranking minority member, and two to the professional staff.<sup>2</sup>

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<sup>1</sup> Every attempt has been made to note key actions relating to minority staffing of committees. However, not every floor statement ever made or inserted in the *Congressional Record* on the subject of minority staffing has been summarized. Discussions that took place during House Administration Committee markup sessions on funding resolutions, or in other forums, that were unpublished have not been cited, although they may be available from the committee. Where information regarding any deliberations became public, the action has been included.

In addition, no systematic search was made of the *Congressional Record* on legislative measures, other than committee funding resolutions or rules modifications, where the subject of minority staffing may have been tangentially raised. As well, citations to newspaper articles, accounts of congressional proceedings and editorials have been omitted from this compilation.

For comprehensive studies of committee staffing, see: Kofmehl, Kenneth. *Professional Staffs of Congress*. Purdue University Press, 1977; and Malbin, Michael J. *Unelected Representatives: Congressional Staff and the Future of Representative Government*. New York, Basic Books, 1980.

<sup>2</sup> U.S. Congress. House of Representatives. Joint Committee on the Organization of the Congress. *Organization of the Congress*. 79th Congress, 2nd sess., Mar. 4, 1946, House Report No. 1675. p. 10. Senate Report No. 1011, p. 10. The Joint Committee also published a committee print entitled, *Suggestions for Strengthening Congress by Members of Congress and Others*, which provides a useful summary.

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**1951:** At hearings before the Senate Committee on Expenditures in the Executive Departments in June, several Senators addressed the issue of committee, and especially minority committee, staff.<sup>3</sup>

**1954:** Senate minority members (Democrats) of the Senate Government Operations Subcommittee on Investigations successfully included in subcommittee rules a provision authorizing them the right to select a minority counsel.<sup>4</sup>

**1957:** On January 30, at the insistence of Senator Carl Curtis (R-NE), ranking minority member on Senate Rules and Administration Committee, committee funding resolutions were to contain a provision that the minority was authorized to hire one person (most committee resolutions contained the so-called "Curtis amendment").

**1958:** Representative Thomas Curtis (R-MO) began his effort to have the Republican House leadership seek increased minority staff for committees.

**1961:** On February 18, columnist Roscoe Drummond in his nationally syndicated column deplored lack of minority staffing and cited a letter from Representative Thomas Curtis to Minority Leader Charles Halleck (R-IN) requesting the House Administration Committee to consider the issue. (Acknowledged by scholars to be the beginning of the effort to secure a "Curtis amendment" in the House).<sup>5</sup>

**1961:** On February 28, Representative Paul Schenck (R-OH), ranking minority member on the House Administration Committee, responded to Representative Curtis' concern during consideration of committee funding resolutions by noting that the House Administration Committee has "no discretionary power in the naming of any member of any staff."<sup>6</sup>

**1961:** Representative Clare Hoffman (R-MI), ranking minority member on the Government Operations Committee, suggested on the House floor that committee employees should be allocated to the majority and minority in the same ratio as their representation on the standing committees.<sup>7</sup> Later that

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<sup>3</sup> U.S. Congress. Senate. Temporary Select Committee to Study the Senate Committee System. *Senate Committee System*. Hearings, 94th Congress, 2nd sess., July 20, 21, and 22, 1976, p. 220-221.

<sup>4</sup> *Congressional Record*, 83rd Congress, 2nd sess., Feb. 2, 1954, p. 1101.

<sup>5</sup> *Washington Post*, "Republicans Default: Small Staffs Limit Action," Feb. 18, 1961, p. A9.

<sup>6</sup> *Congressional Record*, 87th Congress, 1st sess., Feb. 28, 1961, p. 2858.

<sup>7</sup> *Congressional Record*, 87th Congress, 1st sess., Feb. 28, 1961, p. 2861.

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year, on June 1, Representative Hoffman inserted in the *Congressional Record* another column by Roscoe Drummond castigating the Republican leadership for failing to press for minority staffs.<sup>8</sup>

**1962:** H. Res. 570, introduced by Representative Fred Schwengel (R-IA.) on March 21, called for increased committee staffing and a guarantee for the minority of approximately forty percent of the staff.<sup>9</sup> (Representative Schwengel and Representative John Rhodes (R-AZ) offered this provision unsuccessfully to the Legislative Appropriations Bill for FY 1963 (H.R. 11151) in the Appropriations Committee on April 6; a similar amendment was offered on the floor, on April 11, but it was ruled out of order on a point of order as legislation in an appropriations bill).<sup>10</sup>

**1962:** On February 7, the Senate defeated by party line vote of 30-55 a proposal offered by Senator Carl Curtis and Senator Kenneth Keating (R-NY) to authorize one minority employee for every ten hired by the minority for investigations or special studies, not for statutory staff (this proposal would have augmented the 1957 provision for minority staff). Senator Curtis stated that because of the defeat of his amendment he would not offer it to each committee funding resolution, which was his original intention.<sup>11</sup>

**1962:** On March 8, Senator Winston Prouty (R-VT.) introduced S. Res. 309 calling for "sufficient" minority staff on each committee to safeguard the "rights" of minority members.<sup>12</sup>

**1962:** Republican National Committee adopted a resolution urging increased minority staffing.

**1962:** Republican Governors adopted a resolution urging increased minority staffing at the 1962 National Governors Conference.

**1962:** In September, a joint House-Senate ad hoc committee on staffing was created with Representatives Schwengel, Thomas Curtis, and Glenard

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<sup>8</sup> *Congressional Record*, 87th Congress, 1st sess., June 1, 1961, p. 9364.

<sup>9</sup> *Congressional Record*, 87th Congress, 2nd sess., Mar. 21, 1962, p. 4754.

<sup>10</sup> *Congressional Record*, 87th Congress, 2nd sess., Apr. 11, 1962, p. 6343-6357; see also, *Congressional Quarterly Almanac*, v. 18, 1962, p. 155-156, 406-407.

<sup>11</sup> *Congressional Record*, 87th Congress, 2nd sess., Feb. 7, 1962, p. 1870-1875.

<sup>12</sup> *Congressional Record*, 87th Congress, 2nd sess., Mar. 8, 1962, p. 3695-3696.



Lipscomb (R-CA), and Senators Carl Curtis, Hugh Scott (R-PA), and Winston Prouty.

**1963:** House Republican Conference on January 24 appointed a Subcommittee on Increased Minority Staffing, chaired by Representative Fred Schwengel; other members were Representatives Thomas Curtis, John Rhodes, John Lindsay (R-NY), and Paul Schenck. Representatives Robert Griffin (R-MI) and Charles Goodell (R-NY) were later added. (Representative Schwengel and Representative Thomas Curtis became key spokesmen for minority staffing). The subcommittee met over 25 times in the next month to discuss strategy. The group decided to seek more minority staff during the preparation in committee of committee budgets and, if unsuccessful, to work with the Subcommittee on Increased Minority Staffing and the Republicans on the House Administration Committee to seek assistance there. If unsuccessful there, the group decided to fight committee budgets on the floor.<sup>13</sup>

**1963:** House Republican Conference on February 20 adopted a resolution citing alleged abuses in staffing, such as denial of access of minority members to committee staff without prior committee chairman clearance.

**1963:** In February, the House Administration Committee's Accounts Subcommittee and the full House Administration Committee rejected (by vote of 5-4 on February 20 in Subcommittee and 10-9 on February 21 in full Committee, with one Democrat, Representative Robert Everett of Tennessee, voting with the Republicans) proposed minority committee budget amendments which would have authorized committee minority up to forty percent of committee staff.

**1963:** In February, informal meetings held by the Schwengel subcommittee indicated that if the Schwengel 40-60 provision were offered to the committee funding resolutions on the floor, several ranking minority members, including Representatives Les Arends (R-IL) (Armed Services Committee) and James Auchincloss (R-NJ) (Public Works and District of Columbia Committees) would oppose it. Majority Leader Carl Albert (D-OK) and House Administration Committee Chairman Omar Burleson (D-TX) also spoke against the proposal. Representative Schwengel, in not offering his provision, stated that the Majority Leader and Chairman Burleson in debate had established the responsibility of the majority to enforce nonpartisanship on committee staffs, and if problems arose, they would take their concerns directly to the Majority Leader.<sup>14</sup>

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<sup>13</sup> *Congressional Quarterly Weekly Report.*, v. 21. February 8, 1963. p. 154-155.

<sup>14</sup> *Congressional Record*, 88th Congress, 1st sess., Feb. 27, 1963, p. 3051-3078.

**1965:** On March 30, the House Republican Conference Committee on Planning and Research created a House Republican Task Force on Congressional Reform and Minority Staffing (new name of former Subcommittee on Increased Minority Staffing), to be chaired by Representative James Cleveland (R-NH). The Task Force conducted a comprehensive survey among Republican Members on attitudes regarding numerous issues, including minority staffing needs, in part to ensure that the concerns of the minority would be considered by the Joint Committee on the Organization of the Congress.

**1966:** Special Committee on the Organization of Congress (consisting of the Senate members of the Joint Committee on the Organization of the Congress) reported S. 3848, the Legislative Reorganization Act of 1966, which recommended increasing professional staff allowance from four professionals to six professionals who would serve "without regard to political affiliation." The committee report stated:

"While non-partisanship has been preserved on many committees, there are some instances where the minority has been denied adequate staff. It is fundamental to our legislative system that the opposition have adequate resources to prepare informed dissent or alternative courses of action. Consequently, the bill provides for the assignment of two professional staff positions and one clerical position to the minority upon their request."<sup>15</sup>

**1966:** Publication of *We Propose: A Modern Congress*, a compilation of selected proposals by the House Republican Task Force on Congressional Reform and Minority Staffing, including a lead article by Representative James Cleveland on minority staffing.<sup>16</sup>

**1967:** Special Committee on the Organization of Congress reported S. 355, the Legislative Reorganization Act of 1967, which paralleled the recommendations of S. 3848, reported the previous year. The committee

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<sup>15</sup> U.S. Congress. Special Committee on the Organization of the Congress. *Legislative Reorganization Act of 1966*. 89th Congress, 2nd sess., Sept. 21, 1966, Report No. 1629. p. 8.; see also U.S. Congress. Senate. Temporary Select Committee to Study the Senate Committee System. *Senate Committee System*. Hearings, July 20, 21, and 22, 1976, 94th Congress, 2nd sess., p. 231-232.

<sup>16</sup> *We Propose: A Modern Congress*. Selected Proposals by the House Republican Task Force on Congressional Reform and Minority Staffing. McGraw-Hill, Inc., 1966. p. 5-19.

report included the same language about minority staffs as did the report for S. 3848, quoted above.<sup>17</sup>

**1968:** Representative Donald Rumsfeld (R-IL) inserted in the *Congressional Record* a comparison of the minority staffing provisions in the House and Senate versions of the proposed Legislative Reorganization Act.<sup>18</sup>

**1970:** Passage of Legislative Reorganization Act of 1970 (P.L. 91-510), which increased from four to six the number of professional staff allocated to each committee. The minority was authorized to hire two professional and one clerical staff (statutory). For investigative staff, the House minority was granted one-third of funds if they requested it (pursuant to adoption by a 105-63 teller vote on July 16 of an amendment offered by Representative Frank Thompson (D-NJ); an amendment to the amendment, offered by Representative John Dingell (D-MI), to provide that not less than one-third of the committee funds should be allocated to the majority was defeated by voice vote); Senate minority was granted "fair consideration" in the assignment of staff.<sup>19</sup>

**1971:** H. Res. 5, adopted on January 22 by a vote of 226 to 156, eliminated the guarantee of one-third of funds and substituted instead a guarantee of "fair consideration" (Democratic Caucus had earlier in January voted to bind all House Democrats to support the deletion).<sup>20</sup>

**1971:** Representative James Cleveland (R-NH) made an extensive floor statement concerning minority staffing and the actions of Democratic Caucus in January; the statement also reprinted the July 1970 *Congressional Record* debate on the "Thompson" amendment.<sup>21</sup>

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<sup>17</sup> U.S. Congress. Special Committee on the Organization of the Congress. *Legislative Reorganization Act of 1967*. 90th Congress, 1st sess., Jan. 16, 1967. Report No. 1. p. 8.

<sup>18</sup> *Congressional Record*, 90th Congress, 2nd sess., Mar. 14, 1968, p. E1859-E1860.

<sup>19</sup> For the full debate on the "Thompson amendment" on minority staffing, see *Congressional Record*, 91st Congress, 2nd sess., July 15, 1970, p. 24483-24492, and July 16, 1970, p. 24582-24590. For further information, see also U.S. Congress. House. Committee on Rules. *Legislative Reorganization Act of 1970*. 91st Congress, 2nd sess., June 17, 1970. House Report No. 91-1215. p. 15-17.

<sup>20</sup> *Congressional Record*. 92nd Congress, 1st sess., Jan. 22, 1971, p. 132-144. See also *Congressional Quarterly Weekly Report*, Jan. 29, 1971, p. 258.

<sup>21</sup> *Congressional Record*, 92nd Congress, 1st sess., Jan. 21, 1971, p. 44-60.

**1973:** On February 27, the House Rules Committee on an 8-4 vote decided to bring committee funding resolutions to the floor under a closed rule. On February 28, when the resolution for the Banking and Currency Committee was called up, Representative Anderson (R-IL) unsuccessfully sought (204-191) to defeat the previous question in order to offer a minority staffing amendment.<sup>22</sup>

**1973:** On March 7, House Republicans attempted to amend H. Res. 259, providing for open committee meetings, to provide one-third of funds for committee staff for the minority. First, Representative John Anderson, chairman of the Republican Conference, attempted to defeat the previous question on the rule (H. Res. 272) for consideration of H. Res. 259 so that he could offer his amendment on minority staffing. When that failed on a 197-196 vote, with 17 Democrats voting for the minority provision, he offered the amendment to the measure; a point of order was sustained that the amendment was non germane.<sup>23</sup>

**1973:** Representative John Anderson, with over fifty bipartisan cosponsors, introduced H. Res. 331, which entitled the minority to "up to" one-third of committee funds for committee staff to be hired by the minority.

**1973:** Representative James Cleveland introduced H. Res. 167, which entitled the minority to up to one-third of committee funds.

**1973:** Representative Marvin Esch (R-MI) made a floor statement calling for fair treatment in minority staff hiring.<sup>24</sup>

**1973:** In June, the bipartisan Select Committee on Committees (Bolling Committee), which was created to study the organization and operations of the House committee system, including committee staffing, held a hearing devoted to the issue of committee staffing at which several congressional scholars testified and submitted written papers.<sup>25</sup> The Select Committee conducted a survey that indicated that 16.7% of committee staff were allocated to the minority.

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<sup>22</sup> *Congressional Record*, 93rd Congress, 1st sess., Feb. 28, 1973, p. 5925-5931.

<sup>23</sup> *Congressional Record*, 93rd Congress, 1st sess., Mar. 7, 1973, p. 6700-6720.

<sup>24</sup> *Congressional Record*, 93rd Congress, 1st sess., Mar. 13, 1973, p. 7567.

<sup>25</sup> U.S. Congress. House. Select Committee on Committees. *Committee Organization in the House. Panel Discussions, Volume 2 of 3.* 94th Congress, 1st sess., June 21, 1973. House Document No. 94-187. p.185-220, 659-691.



**1973:** Select Committee on Committees introduced H. Res. 988, the Committee Reform Amendments of 1974, which contained the recommendations of the Bolling Committee, on March 19. Included was a recommendation that the minority could select one-third of committee staffs, both professional and clerical statutory staff, and receive one-third of the funds made available under the expense resolutions, rather than "fair consideration."<sup>26</sup> On May 9, by a Democratic Caucus vote of 111-95, the measure was referred to the Caucus Committee on Organization, Study and Review (chaired by Representative Julia Butler Hansen) for further modification. The Hansen version was reported back to the Caucus on July 17; the Hansen version by the rule was to be offered as a substitute to the Bolling version.

**1974:** H. Res. 988 (so-called Bolling/Hansen amendments), as adopted, was basically the language recommended by the Hansen Committee. It guaranteed one-third of the committee staff (except Committee on Standards of Official Conduct), both statutory and investigative, to the minority if requested by a majority of the minority members. Statutory staff were increased from six to eighteen professional and from six to twelve clerical employees (except the Committees on Appropriations and Budget, which had no limits placed on them).<sup>27</sup>

**1974:** House Republican Research Committee created a Task Force on Congressional Reform in November and charged it with reviewing, among other items, minority staffing. In December, Representative Bill Frenzel (R-MN) inserted in the *Congressional Record* the statement of the Task Force regarding minority staffing and tabular data on minority staff.<sup>28</sup>

**1975:** H. Res. 5, as drafted during the January 13 Democratic Caucus meetings, rescinded the one-third guarantee for investigative staff and retained it only for statutory personnel. Instead, the Caucus and then the House agreed to a provision that allowed subcommittee chairmen and top-ranking minority members to hire one staff person each to work on their subcommittees (up to a maximum of six subcommittees). Accordingly,

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<sup>26</sup> U.S. Congress. House. Select Committee on Committees. *Committee Reform Amendments of 1974. Report to Accompany H. Res. 988.* 93rd Congress, 2nd sess., March 21, 1974. Report 93-916 Part II. p. 73, 197-207.

<sup>27</sup> For the complete debate on H. Res. 988, see *Congressional Record*, 93rd Congress, Sept. 30, 1974, p. 32953-33009; Oct. 1, 1974, p. 33311-33352; Oct. 2, 1974, p. 33562-33584; Oct. 3, 1974, p. 33700-33714; Oct. 7, 1974, p. 34169-34173; Oct. 8, 1974, p. 34406-34420, 34447-34470.

<sup>28</sup> *Congressional Record*, 93rd Congress, 2nd sess., Dec. 18, 1974, p. 40949-40952.



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statutory staff was effectively increased from thirty (10 minority) to forty-two (16 minority).<sup>29</sup>

**1975:** Senate passed S. Res. 60 (subsequently enacted into law) on June 12, which authorized all, including therefore minority, Senators to hire up to three personal committee aides.<sup>30</sup>

**1976:** Office of the House Minority Leader conducted a study which revealed that less than twenty percent (19.1%) of committee staff was assigned to the minority.

**1976:** At hearings in July before the Senate Temporary Select Committee to Study the Senate Committee System, several Senators addressed the issue of committee, and especially minority committee, staff.<sup>31</sup>

**1977:** Representative Robert McClory (R-IL) introduced H. Res. 130, providing one-third of the funds for committee staff to the minority.<sup>32</sup>

**1977:** Senate passed S. Res. 4, Committee System Reorganization Amendments of 1977, which directed that a majority of the minority members of any committee could request that at least one-third of the funds for staff be allocated to the minority, with the proviso that committees have four years from July 1 to comply with the provision. The resolution also provided that the minority would receive a "proportionate" share of committee space, equipment, and facilities.

**1977:** Senator Robert Griffin (R-MI) on June 14 inserted in the *Congressional Record* the current majority/minority staff breakdown so that

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<sup>29</sup> *Congressional Record*, 94th Congress, 1st sess., Jan. 14, 1975, p. 20-33. Much of the debate centered around the minority's procedural inability to amend H. Res. 5 on the floor in order to offer an amendment to reinstate the one-third minority staff allocation.

<sup>30</sup> *Congressional Record*, 94th Congress, 1st sess., June 12, 1975, p. 18603-18611.

<sup>31</sup> U.S. Congress. Senate. Temporary Select Committee to Study the Senate Committee System. *Senate Committee System. Hearings*, 94th Congress, 2nd sess., July 20, 21, and 22, 1976. p. 128. In an appendix on p. 220-221, a compilation of recommendations on staffing received by the Senate Committee on Expenditures in the Executive Departments in 1951 notes those Members who discussed minority staff. Another appendix on p. 231-232 provides the same information for the 1966 Joint Committee on the Organization of the Congress.

<sup>32</sup> *Congressional Record*, 95th Congress, 1st sess., Jan. 19, 1977, p. 1720.

committees could establish the baseline from which to measure future progress.<sup>33</sup>

**1978:** Senator Mark Hatfield (R-OR), on March 7 inserted in the *Congressional Record* the current majority/minority staff breakdown at that time in compliance with the directive in S. Res. 4 that the Rules and Administration Committee monitor minority staff allocations.<sup>34</sup>

**1979:** Senator Mark Hatfield on May 8 inserted in the *Congressional Record* the current majority/minority staff breakdown at that time in compliance with the directive in S. Res. 4 that the Rules and Administration Committee monitor minority staff allocations.<sup>35</sup>

**1979:** Office of the House Minority Leader conducted a study which revealed that less than twenty percent (19.3%) of committee staff was assigned to the minority.

**1980:** Senate rejected an amendment, offered by Senator Robert Dole (R-KS), to H. R. 7584, the State, Justice, Commerce Appropriations bill, to prohibit funding for staff salaries on the Helsinki Commission unless provision was made for minority representation reflecting minority representation in Congress.<sup>36</sup>

**1980:** Senate passed S. Res. 281, which eliminated the distinction between statutory and investigative staff (by requiring a single uniform committee budget); the minority was still entitled to request one-third of committee funds for staff.<sup>37</sup>

**1980:** House Select Committee on Committees (Patterson Committee) issued its final report, including minority views regarding minority staff issue.<sup>38</sup>

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<sup>33</sup> *Congressional Record*, 95th Congress, 1st sess., June 14, 1977, p. 18924.

<sup>34</sup> *Congressional Record*, 95th Congress, 2nd sess., Mar. 7, 1978, p. 5841-5843.

<sup>35</sup> *Congressional Record*, 96th Congress, 1st sess., May 8, 1979, p. 10227-10230.

<sup>36</sup> *Congressional Record*, 96th Congress, 2nd sess., Nov. 13, 1980, p. 29469-29470.

<sup>37</sup> *Congressional Record*, 96th Congress, 2nd sess., Mar. 11, 1980, p. 5174-5175; the resolution was to be effective Feb. 28, 1981.

<sup>38</sup> U.S. Congress. House. Select Committee on Committees. *Final Report*. 96th Congress, 2nd sess., April 1, 1980. House Report No. 96-866. p. 11-12. The entire report, especially in its sections recounting previous

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**1980:** During consideration on the House floor of committee funding resolutions, several Members discussed the issue of minority staffing allocations and inserted in the *Congressional Record* tables and charts depicting the staffing ratio.<sup>39</sup>

**1980:** Representative James Collins (R-TX) inserted in the *Congressional Record* a statement on committee staffs generally and included statements and tables depicting majority/minority staff ratios.<sup>40</sup>

**1981:** House passed H. Res. 5, the rules for the 97th Congress, and discussed the Republican substitute. The debate included a discussion of minority staff.<sup>41</sup>

**1981:** Representative Trent Lott (R-MS) inserted in the *Congressional Record* a reprint of the minority views of the Patterson Committee regarding minority staffing.<sup>42</sup>

**1981:** During consideration on the House floor of committee funding resolutions (H.Res. 115), several Members discussed the issue of minority staffing allocations and inserted tables and charts depicting the staffing ratio in the *Congressional Record*.<sup>43</sup>

**1983:** House passed H. Res. 5, the rules for the 98th Congress, and discussed the proposed Republican substitute. The debate included a discussion over minority staff.<sup>44</sup>

**1983:** During consideration on the House floor of committee funding resolution (H. Res. 127), several Members discussed the issue of minority

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reform efforts, discusses aspects of minority staffing.

<sup>39</sup> *Congressional Record*, 96th Congress, 2nd sess., Feb. 28, 1980, p. 4306-4342.

<sup>40</sup> *Congressional Record*, 96th Congress, 2nd sess., Oct. 1, 1980, p. 28703-28706.

<sup>41</sup> *Congressional Record*, 97th Congress, 1st sess., Jan. 5, 1981, p. 98-113.

<sup>42</sup> *Congressional Record*, 97th Congress, 1st sess., Mar. 31, 1981, p. E939-E941.

<sup>43</sup> *Congressional Record*, 97th Congress, 1st sess., Mar. 25, 1981, p. 5195-5239.

<sup>44</sup> *Congressional Record*, 98th Congress, 1st sess., Jan. 3, 1983, p. 34-51.

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staffing allocated and inserted tables and charts depicting the staffing ratios in the *Congressional Record*.<sup>45</sup>

**1983:** House passed H. Res. 58, providing statutory staff for the House Select Committee on Intelligence. The debate included a discussion on the protection of minority staff, and the meaning of "non-partisan" staff which is allocated to the committee.<sup>46</sup>

**1984:** House passed H. Res. 443, providing funding for the Select Committee on Hunger. The debate included a discussion of the minority's concern over "adequate" budget and staff.<sup>47</sup>

**1985:** House passed H. Res. 7, the rules for the 99th Congress, and discussed the proposed Republican substitute. The debate included a discussion over minority staff.<sup>48</sup>

**1986:** During consideration on the House floor of the committee funding resolution (H. Res. 368), several Members discussed the issue of minority staffing allocations and inserted tables and charts depicting the staffing ratio in the *Congressional Record*.<sup>49</sup>

**1987:** House passed H. Res. 5, the rules for the 100th Congress, and discussed the proposed Republican substitute. The debate included a discussion over minority staff.<sup>50</sup>

**1989:** On Jan. 3, House passed H. Res. 5, the rules for the 101st Congress, and discussed the proposed Republican substitute. The debate included a discussion over minority staff.<sup>51</sup>

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<sup>45</sup> *Congressional Record*, 98th Congress, 1st sess., Mar. 22, 1983, p. 6446-6460.

<sup>46</sup> *Congressional Record*, 98th Congress, 1st sess., Mar. 1, 1983, p. 3241-3244.

<sup>47</sup> *Congressional Record*, daily ed., 98th Congress, 2nd sess., Mar. 29, 1984, p. H2081-H2086.

<sup>48</sup> *Congressional Record*, 99th Congress, 1st sess., Jan. 3, 1985, p. 393-412.

<sup>49</sup> *Congressional Record*, 99th Congress, 2nd sess., Feb. 5, 1986, p. 1752-1762.

<sup>50</sup> *Congressional Record*, daily ed., 100th Congress, 1st sess., Jan. 6, 1987, p. H6-H18.

<sup>51</sup> *Congressional Record*, daily ed., 101st Congress, 1st sess., Jan. 3, 1989 p. H7-H17.

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**1989:** Representative Lynn Martin (R-IL) introduced H. Res. 106, which among other things called for one-third investigative staff funding for the minority.<sup>52</sup>

**1989:** On March 21, the House adopted H. Res. 103, committee funding for the first session. During the debate many speakers discussed the minority staffing issue, and committee report language discusses the twenty percent minority staff agreement and the potential for a one-third minority staff allocation in the future.<sup>53</sup>

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<sup>52</sup> *Congressional Record*, daily ed., 101st Congress, 1st sess., Mar. 9, 1989, p. E727-728 and Mar. 13, 1989, p. H589-H593.

<sup>53</sup> *Congressional Record*, daily ed., 101st Congress, 1st sess., Mar. 21, 1989, p. H772-H782; see also U.S. Congress. House. Committee on House Administration. *Providing Amounts from the Contingent Fund of the House for the Expenses of Investigations and Studies by Standing and Select Committees of the House in the First Session of the One Hundred First Congress*. 101st Congress, 1st sess., Mar. 15, 1989. Report 101-8. p. 4.





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April 8, 1993

TO : Joint Committee on the Organization of Congress

FROM : Richard C. Sachse *RS*  
Analyst in American National Government  
Government Division

SUBJECT : The Growth of Interest Groups and Its Implications for Congress

This memorandum discusses the growth of interest groups, especially in recent years, and the impact of this growth on Congress. This consideration assesses the possible impact should congressional staffs be reduced in size, and concludes with some observations on broader implications for Congress, government, and society in general.

#### Growth in Numbers of Interest Groups

For several decades, a group of analysts have been charting the growth of organized interests and the role these interests play in American political life. While they disagree in many areas, especially the impact and implications of this growth, these analysts all concur that there has been an explosion in the last 30 years in the numbers and diversity of groups that form the Washington pressure group community.

While the data demonstrating this growth are extensive (and dramatic), a few examples should serve to make the point.<sup>1</sup> The membership of the American Association of Retired Persons (AARP) has risen from 4,500,000 in 1973, to 7,000,000 in 1975, to 33,000,000 today, making it the largest voluntary membership association in the United States. In the ten years between 1973 and 1983, membership in the District of Columbia Bar Association more than tripled, from 11,000 to 37,000. In the next ten years it increased by another 67 percent, to more than 59,000. The number of health groups with offices in Washington grew from slightly more than 100 in 1979 to more than 700 in 1991. The proportion of national trade and professional associations headquartered in Washington rose from 19 percent to 32 percent between 1971 and 1990. Finally, the total number of national associations grew from 4,900

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<sup>1</sup> The source for some of the following data on interest group growth is Rauch, Jonathan. *The Parasite Economy*. *National Journal*, v. 24, April 25, 1992, p. 981-983. Data on the growth of the AARP, the DC Bar Association, and non-profit lobbying groups were developed independently.

in 1956 to 8,900 in 1965, to 12,900 in 1975, and to 23,000 by 1989, in effect, doubling every 15 years.

Data from the Senate Office of Public Records show that the number of registered, active lobbyists increased from slightly more than 3,000 in 1976 to more than 8,500 in 1992. While the number of registered lobbyists does not reflect the total number of Washington lobbyists, the percentage increase, almost 200 percent between 1976 and 1992, may to a degree reflect the rate of growth in the total number of lobbyists.

Finally, data from the Internal Revenue Service show that since 1976, when Congress adopted policies allowing charitable organizations to conduct certain lobbying activities without fear of losing their tax-exempt status, 4,446 such groups have elected to be covered under the IRS guidelines.

### Growth in Diversity of Interests

The growth in diversity of interests is similarly striking. Some of the large forces responsible for this proliferation include: rapid social and economic changes brought on by the shift from an industrial to post-industrial society; the spread of relative affluence and education, coupled with advanced communication technologies; and technological achievements and scientific advances.

An example of the latter is the interest group subsystem that has developed around public policy issues of organ transplantation. Until the development of the immunosuppressant cyclosporine in the late 1970s, only kidney transplantation had achieved moderate rates of success, encouraged, in part, by Medicare's End Stage Renal Disease Program, designed to promote transplantation as a more economical alternative to renal dialysis. When cyclosporine proved to be the "magic bullet" that greatly mitigated the problem of organ rejection, transplant success rates improved dramatically; transplantation of organs other than kidneys became possible and practical; and, in 1984, Congress approved the National Organ Transplant Act (including the establishment of a Division of Organ Transplantation within the Public Health Service to administer programs under the Act) in an effort to encourage the donation of and regulate the allocation of donor organs. As the field of organ transplantation began a period of rapid growth, a network of groups appeared to represent interests within the field and participate in setting government policies.

Using this example, a partial listing of these groups would include the following: the American Association of Kidney Patients, the American Society of Transplant Physicians, the American Society of Transplant Surgeons, the Association of Organ Procurement Organizations, the National Association of Minority Health and Transplant Professions, National Kidney Foundation, National Transplant Action, the North American Transplant Coordinators Organization, the Partnership for Organ Donation, Transplant Recipients International Organization, and the United Network for Organ Sharing.

Other forces contributing to the growth of interests include the continuing decline of the political parties as consensus-building institutions and the consequent growth of political action committees (PACs); the adoption of public policies that have encouraged government advocacy by non-profit organizations; organizational and procedural changes in Congress that have enhanced access by further decentralizing legislative decisionmaking; and the general institutionalization of the Washington lobbying profession.

### Impact of Interest Groups on Congress

The impact of the interest group explosion on Congress has several facets. First, conflict between group leaders and an increasingly active group membership has made policy negotiations between Congress and groups more complex. An often-cited example is the fate of the Medicare Catastrophic Coverage Act of 1988. The plan was developed with the endorsement of the AARP, but a year later Congress was forced to repeal the Act after a grassroots uprising among AARP's membership who objected to the higher Medicare premiums some senior citizens would be required to pay. The revolt required Congress to consider who, among the private interests, spoke for the Nation's elderly.

Likewise, as groups with similar concerns seek to position themselves in the marketplace of interests, Congress must contend with inter-group competition. As political scientists Norman Ornstein and Mark Schmitt note, "... the world in which Washington interest groups operate has transformed itself in the past two decades from a closed-door marketplace of political influence by a few established interests to something like a Moroccan *Casbah*, with thousands of groups clamoring for the attention of government as well as potential members and donors."<sup>2</sup> Groups with similar concerns (the National Organization of Women and the National Women's Political caucus, for example or the Conservative Caucus and the National Conservative Political Action Committee,) may compete with one another, not just for members, but for the attention of Congress and for policy dominance among like interests.

Adding to this confusion are entrepreneurial leadership groups: groups formed from the top down, often with little or no rank-and-file membership. An example is James Roosevelt's National Committee to Preserve Social Security and Medicare, a controversial fundraising organization known especially for making its direct mail appeals look like official correspondence from the Social Security Administration. Another example is Ralph Nader and the various offshoots of his operations. Again, the bottom line for Congress involves sorting out who speaks for what and for whom.

While traditional lobbying techniques—testifying at hearings, face-to-face meetings with Members of Congress, and letter-writing campaigns—show no signs of being replaced, modern

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<sup>2</sup> Ornstein, Norman J. and Mark Schmitt. *The New World of Interest Politics*. In *Governing: Readings and Cases in American Politics*, 2d ed. Davidson, Roger H. and Walter J. Oleszek, eds. Washington, CQ Press, 1992. p. 173.

communications technology has provided new avenues for access to congressional offices. In recent years, interest groups have delivered video tapes, computer-generated letters designed to look as though they were personally written by group members, and have set up free "800" phone numbers that connect directly with a congressman's office or the Capitol switchboard. (In the latter case, the 800 number was set up by Philip Morris to enable callers to complain about a proposed cigarette tax. An anti-smoking group then established its own 800 number to counter the smokers' efforts—an example, though not necessarily typical, of how countervailing forces tend to neutralize lobbying). One problem that has arisen as the result of the marriage of grass-roots lobbying and sophisticated technology is that it is becoming increasingly difficult to tell the difference between manufactured public opinion and genuine expressions of popular sentiment.<sup>3</sup>

Yet another facet is the reaction of the public and the electorate to the interest explosion. Congress' low public esteem derives in part from the broad belief that it is beholden to the special interests. There appears to be little public sympathy for the difficult realities of the interest explosion. Ross Perot and his followers have given particular voice to this most recent expose of the "evils" of the special interests, and Congress has responded by considering or moving towards reform: reform of Congress; the election process; lobbying; and Capitol Hill ethics, for example, the so-called "revolving door" issue. If these reforms are enacted, they may lessen some of the more visible manifestations of the interest group "problem," but the structural dilemma of growing numbers, expanding varieties of interests, and increasing demands from all will remain.

### Impact of Interest Groups If Congressional Staffs Were Reduced

Congressional staff play an important role in the process of intermediation between interests and Members of Congress. They may act as agents in the exchange of information, broker political and policy negotiations, and provide a buffer between the Member and the interests. Because their issue focus is often narrower than the Member's, they can develop the substantive—and political—expertise that makes them a valuable asset in negotiations.

A reduction in congressional staff at a time when interest group activity is rapidly expanding could have several consequences. Members may lose some measure of the protective buffer that separates themselves from the interests. One possible result is that Members may need to budget more of their time to deal with the interests. Members could find themselves under greater pressure to develop the diverse issue expertise for which they previously relied on staff. It is also possible that without the buffer of staff, Members could become more directly vulnerable to group pressures. Similarly, Members could find themselves less able to evaluate the accuracy of information provided by the interests, and therefore less able to make informed judgments and decisions. This situation could be exacerbated with respect to the loss of committee staff, who often bear a major responsibility for policy development.

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<sup>3</sup> See, for example, Engleberg, Stephen. *A New Breed of Hired Hands Cultivates Grass-Roots Anger*. *The New York Times*, March 17, 1993. p. A-1; and Stone, Peter H. Green, *Green Grass*. *National Journal*, v. 25, March 27, 1993. p. 754-757.



Some may argue, with good reason, that having Members deal more directly with the interests about their policy concerns would be beneficial to the legislative process and democracy in general. But the pressures of time and the complexities of modern congressional life make such extensive contacts generally impractical. For the same reasons Congress continues its support for proxy and quorum rules.

The demands on Members of dealing with the interests should staffs be cut (or even if they are not) could be lessened if Congress approves some of the reform measures under consideration, including campaign finance. While Members disagree whether or not the present system of funding election campaigns is wrong, virtually all Members denounce the amount of time that must be given over to fundraising, and studies show that amount of time to be significant. Freeing Members from some of the time they spend raising campaign funds would presumably allow opportunities for other congressional duties, including interest-related activities not associated with fundraising. In addition, passage of a workable lobby disclosure bill might provide Members with a measure of self-protection. They will have better information about lobbying activities, and so be better able to make informed judgments about interest group demands.

### Broader Implications of Interest Group Growth

Three perspectives can be identified with respect to the broad political and societal implications of the interest explosion. At one extreme are theorists who believe the present interest group system will doom Congress to gridlock and the Nation to decline. The principal theorist for this group is the political economist Mancur Olson. In *The Rise and Decline of Nations*, Olson argued that in a stable democracy interests develop and accumulate over time; their long-term effect is to inhibit economic innovation and growth, and further stifle the economy through permanent subsidy arrangements with government.<sup>4</sup> Although a popular theory with those who see the United States in a period of broad decline, Olson's ideas are controversial and analysts have produced data that question his assumptions and conclusions.<sup>5</sup>

Another school consists of those who do not see the certainty of decline, but instead view the proliferation of interests as a positive indication of the vitality of pluralism in American society. There is a price to be paid for enhancing pluralism, however, and that price, according to the political scientist Nelson W. Polsby, is "a less orderly political life."<sup>6</sup> Quoting

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<sup>4</sup> Olson, Mancur. *The Rise and Decline of Nations*. New Haven, Yale University Press, 1982. 273 p. A recent and more general treatment is Rauch, Jonathan. *Demosclerosis*. *National Journal*, v. 24, September 5, 1992. p. 1998-2003.

<sup>5</sup> See, for example, Mucciaroni, Gary. *Unclogging the Arteries: The Defeat of Client Politics and the Logic of Collective Action*. *Policy Studies Journal*, v. 19, 1991. p. 474-494.

<sup>6</sup> See Polsby, Nelson W. *Prospects for Pluralism in the American Federal System: Trends in Unofficial Public-Sector Intermediation*. In Golembiewski, Robert T. and Aaron Wildavsky. *The Costs of Federalism*. New Brunswick, N.J., Transaction Books, 1984. p. 32.



Polsby at length is instructive:

[A]s to underlying conditions in the population at large making for multiple political demands, there are no signs of abatement of current trends: the proliferation of groups, the invention of new demands, and the consequent bureaucratization of intermediation as service agencies attempt to protect themselves against extensive claims. . . . Trust between leaders and led will be a rare commodity, and when it appears it may take the form of media-induced spasms of popularity rather than the rippling out of word-of-mouth information from people who know what they are talking about. This is one of the costs of participation in a very large and very heterogeneous society in which status, tradition, and habit come to mean less and less and explicit decisions of various sorts -- decisions to affiliate, to agree or disagree, to back or withhold backing -- are spread more and more widely among a population whose numbers are increasingly eager to make choices for themselves.<sup>7</sup>

Polsby notes, however, that the vast array of political choices bring with them certain social consequences, namely that the traditional institutions and support systems one looks to for stability in an era of rapid change are themselves subject to the same laws of change responsible for the benefits of pluralism. The result, he concludes, is that, "we are doing better and feeling worse."<sup>8</sup>

Finally, there exists a third grouping of analysts who accept neither Olson's argument that interests are the primary cause of our political and social ills, nor Polsby's belief that the apparent negative features of the interest group explosion are fairly balanced by the benefits of pluralism the interests impart. For example, in *Organized Interests and American Democracy*, although the authors do not believe that interest group demands will lead to the fall of federal governance, they worry that the interest group explosion has introduced "a potentially dysfunctional particularism into national politics."<sup>9</sup> But they ultimately conclude, like James Madison, that restraints on interest groups as a remedy is a more pernicious cure than the disease; the interests, no matter how difficult they may make life for governmental decision makers, are the price of a free society. As another example, in *The Interest Group Society*, Jeffrey M. Berry takes a somewhat more normative approach.<sup>10</sup> While also warning that government is limited in what it can do to control the interests, he focuses on campaign

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<sup>7</sup> Ibid., p. 31.

<sup>8</sup> Ibid., p. 32.

<sup>9</sup> Schlozman, Kay Lehman and John T. Tierney. *Organized Interests and American Democracy*. New York, Harper & Row, 1986. p. 408.

<sup>10</sup> Berry, Jeffrey M. *The Interest Group Society*. Boston, Little, Brown, 1984. p. 212-220.

finance reform as one way to level the playing field between well-represented and under-represented interests. This, along with renewal of the party system, he sees as providing a measure of balance in the government-interest group relationship. A third noted analyst of interest groups, Robert Salisbury, believes that while there are more interests than ever before, they wield less authority than in the past over policy results. His research indicates that the groups traffic mostly in information, not influence. Salisbury notes that the political and societal changes that have brought the interests to Washington have "destabilized" the old order where triangles of Congress, interests, and agencies ruled policy decisions. Still, the interest explosion can be best analyzed as the need and dependence of interests on Washington rather than the popular belief that the interests have arrived to work their will.<sup>11</sup>

## Conclusion

In summary, then, while observers see the growth of interest groups as an important development, they do not agree on what it might mean. Of popular opinion, on the other hand, there is little doubt, and this is an important consideration for any elected official. But for many analysts, whether or not the interest explosion poses a serious threat to governance remains a topic of continuing debate and research. The direct impact on Congress, whether or not staffs are cut, might be seen on one level as a management problem. For example, in the future, Members may have to spend more time mediating and negotiating among competing interests. Time taken for this activity will have to be added to an increasingly unwieldy congressional schedule, as witnesses before the Joint Committee on the Organization of Congress have testified. Some relief may be attained should new campaign finance reform and lobby disclosure laws be enacted. The former is meant to reduce the influence of PACs (and the amount of time Members spend soliciting campaign contributions) and the latter to provide greater and more useful information about the activities of lobbyists. Restoring the political parties' former role of mediating interest group demands would also reduce some of the pressure. But, and virtually all analysts agree on this, there is nothing to suggest that for the future the numbers of interests, and the demands of the interests, will do anything but grow. At some point in the future, Congress will need to develop additional strategies to deal with this dilemma.

Please do not hesitate to call on me if I can be of further assistance in this matter. I can be reached at 7-7744.

RCS:rda

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<sup>11</sup> See Salisbury, Robert H. *The Paradox of Interest Groups in Washington*. In *Interests and Institutions: Substance and Structure in American Politics*. Pittsburgh, University of Pittsburgh Press, 1992. p. 339-364.



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U.S. CONGRESS OFFICIAL MAIL COSTS:  
FY 1972 TO FY 1993 (Est.)

John Pontius  
Specialist in American National Government  
Government Division

January 12, 1993

TABLE 1. Official Mail Costs, and Percentage of Total Mail Costs Used by House of Representatives and Senate, Fiscal Years 1972 to 1993 (Est.)<sup>1</sup>

Fiscal Year	Official mail costs <sup>2</sup>			Percentage of total mail costs	
	House	Senate	Total	House	Senate
1972 <sup>3</sup>	\$18,422,602	\$4,783,735	\$23,206,337	79.39%	20.61%
1973	\$18,709,109	\$7,576,301	\$26,285,410	71.18%	28.82%
1974	\$21,781,570	\$9,520,673	\$31,302,243	69.58%	30.42%
1975	\$24,508,846	\$11,467,479	\$35,976,325	68.12%	31.88%
1976	\$38,340,515	\$14,633,188	\$52,973,703	72.38%	27.62%
Trans. qtr. <sup>4</sup>	\$14,924,536	\$4,250,238	\$19,174,774	77.83%	22.17%
1977	\$27,860,414	\$13,559,185	\$41,419,599	67.26%	32.74%
1978	\$36,109,000	\$13,817,000	\$48,926,000	71.76%	28.24%
1979	\$27,729,087	\$15,213,555	\$42,942,642	64.57%	35.43%
1980	\$43,421,682	\$18,484,220	\$61,905,902	70.14%	29.86%
1981	\$29,686,213	\$24,175,800	\$53,862,013	55.12%	44.88%
1982	\$59,894,236	\$40,143,989	\$100,038,225	59.87%	40.13%
1983	\$40,306,625	\$32,126,335	\$72,432,960	55.65%	44.35%
1984	\$67,348,392	\$43,608,944	\$110,957,336	60.70%	39.30%
1985	\$45,308,146	\$39,852,648	\$85,160,794	53.20%	46.80%
1986	\$60,400,595	\$35,538,040	\$95,938,635	62.96%	37.04%
1987	\$44,200,958	\$19,423,954	\$63,624,912	69.47%	30.53%
1988	\$77,852,082	\$35,507,565	\$113,359,647	68.68%	31.32%
1989	\$57,220,627	\$32,283,506	\$89,504,133	63.93%	36.07%
1990	\$72,942,800	\$15,001,842	\$87,944,642	82.94%	17.06%
1991	\$31,343,891	\$11,744,034	\$43,087,925	72.74%	27.26%
1992	\$54,339,650 <sup>5</sup>	\$17,422,313 <sup>6</sup>	\$71,761,963	75.72%	24.28%
1993E	\$47,711,000 <sup>7</sup>	\$20,000,000 <sup>8</sup>	\$67,711,000	70.46%	29.54%

## CRS-2

## NOTES

<sup>1</sup> Sources: Donald K. Anderson, Clerk of the House of Representatives, and U.S. Postal Service officials. The author wishes to acknowledge and thank the above people for their assistance. The FLITE (Federal Legal Information Through Electronics) data base search was also used. In addition, committee hearings, committee reports, floor debate, and public laws were reviewed. However, not all subcommittee and full committee mark-up figures are available. Accordingly, in instances where there were reductions from the amounts requested (for both regular and supplemental appropriations) these figures are presented in the tables. However, the reasons for the cuts are not always evident from the public documents. Where reasons are presented, they are cited in the notes.

<sup>2</sup> These costs are only for the cost of official (franked) mail sent by Congress. Excluded are the cost of stamps purchased. The U.S. Postal Service views franked mail as revenue.

<sup>3</sup> The figures from 1972 to 1977 regarding official mail costs for the House, Senate, and Congress, are based on a 1984 phone conversation by the Clerk's office with the U.S. Postal Service. The U.S. Postal Service source is a summary document of volume and payment data for House and Senate. The year 1972 is the earliest year for which the Postal Service has records on mail volume and official mail cost.

<sup>4</sup> The transition quarter (July 1, 1976, to September 30, 1976) was required as a result of the change in the beginning of the Federal Government fiscal year from July 1 to October 1. The FY 1976 Legislative Branch Appropriations included funds for FY 1976 and for the three-month transition period. Because the transition quarter was a one-time accounting device, the data for the transition quarter is included in the tables, but not the graphs.

<sup>5</sup> USPS letter November 12, 1992.

<sup>6</sup> USPS letter November 12, 1992.

<sup>7</sup> P.L. 102-392, Legislative Branch Appropriations, 1993.

<sup>8</sup> P.L. 102-392, Legislative Branch Appropriations, 1993.



TABLE 2. Official Outgoing Mail Volume, and Percentage of Total Outgoing Mail Used  
by the House of Representatives and Senate, Fiscal Years 1972-1993 (Est.)<sup>1</sup>

Fiscal year	Volume: number of pieces sent			Percentage of total outgoing mail		
	House	Senate	Total	House	Senate	
1972 <sup>2</sup>	230,282,524	59,796,687	290,079,211	79.39%	20.61%	
1973	207,001,419	86,187,506	293,188,925	70.60%	29.40%	
1974	223,617,840	97,357,698	320,975,538	69.67%	30.33%	
1975	212,890,050	99,492,733	312,382,783	68.16%	31.85%	
1976	294,869,543	106,558,729	401,428,272	73.46%	26.54%	
Trans. qtr. <sup>3</sup>	129,721,529	30,194,561	159,916,090	81.12%	18.88%	
1977	223,754,223	86,346,092	310,100,315	72.16%	27.84%	
1978	334,065,000	96,097,000	430,162,000	77.66%	22.34%	
1979	239,734,399	86,526,101	326,260,500	73.48%	26.52%	
1980	400,129,816	111,172,349	511,302,165	78.26%	21.74%	
1981	262,281,213	133,300,675	395,581,888	66.30%	33.70%	
1982	508,156,638	263,608,855	771,765,493	65.84%	34.16%	
1983	335,650,314	221,190,032	556,840,346	60.28%	39.72%	
1984	586,203,143	338,399,231	924,602,374	63.40%	36.60%	
1985	354,291,751	321,982,710	676,274,461	52.39%	47.61%	
1986	461,091,864	297,649,018	758,740,882	60.77%	39.23%	
1987	338,540,364	156,193,086	494,733,450	68.43%	31.57%	
1988	548,465,538	256,532,131	804,997,669	68.13%	31.87%	
1989	372,167,258	226,545,488	598,712,746	62.16%	37.84%	
1990	476,092,596	88,095,425	564,188,021	84.39%	15.61%	
1991	200,004,035	59,780,774	259,784,809	76.99%	23.01%	
1992	365,308,622 <sup>4</sup>	92,717,793 <sup>6</sup>	458,026,415	79.76%	20.24%	
1993E	298,941,103 <sup>6</sup>	N.A. <sup>7</sup>				

## CRS-4

## NOTES

<sup>1</sup> Sources: Donald K. Anderson, Clerk of the House of Representatives; Office of Senate Postmaster; and U.S. Postal Service officials. The author wishes to acknowledge and thank the above people for their assistance. The FLITE (Federal Legal Information Through Electronics) data base search was also used. In addition, committee hearings, committee reports, floor debate, and public laws were reviewed. However, not all subcommittee and full committee mark-up figures are available. Accordingly, in instances where there were reductions from the amounts requested (for both regular and supplemental appropriations), these figures are presented in the tables. However, the reasons for the cuts are not always evident from the public documents. Where reasons are presented, they are cited in the notes.

<sup>2</sup> The figures from 1972 to 1977 regarding outgoing mail volume for the House, Senate, and Congress are based on a 1984 phone conversation by the Clerk's office with the U.S. Postal Service. The U.S. Postal Service source is a summary document of volume and payment data for House and Senate. The year 1972 is as far back as the Postal Service had records on mail volume.

<sup>3</sup> The transition quarter (July 1, 1976, to September 30, 1976) was required as a result of the change in the beginning of the Federal Government fiscal year from July 1 to October 1. The FY 1976 Legislative Branch Appropriations included funds for FY 1976 and for the three-month transition period. Because the transition quarter was a one-time accounting device, the data for the transition quarter is included in the tables, but not the graphs.

<sup>4</sup> USPS letter November 12, 1992.

<sup>5</sup> USPS letter November 12, 1992.

<sup>6</sup> The FY 1993 outgoing mail volume of 298,941,103 pieces of mail for the House is a United States Postal Service estimate based on \$47,711,000 appropriated by the Congress (P.L. 102-392, Legislative Branch Appropriations, FY 1993).

<sup>7</sup> N.A.

TABLE 3. House of Representatives, Cost and Volume of Outgoing Official Mail,  
Fiscal Years 1972-1993 (Est.)<sup>1</sup>

Fiscal year	Outgoing official mail	
	Number of pieces sent	Cost <sup>2</sup>
1972 <sup>3</sup>	230,282,524	\$ 18,422,602
1973	207,001,419	\$ 18,709,109
1974	223,617,840	\$ 21,781,570
1975	212,890,050	\$ 24,508,846
1976	294,869,543	\$ 38,340,515
Trans. qtr. <sup>4</sup>	129,721,529	\$ 14,924,536
1977	223,754,223	\$ 27,860,414
1978	334,065,000	\$ 35,109,000
1979	239,734,399	\$ 27,729,087
1980	400,129,816	\$ 43,421,682
1981	262,281,213	\$ 29,686,213
1982	508,156,638	\$ 59,894,236
1983	335,650,314	\$ 40,306,625
1984	586,203,143	\$ 67,348,392
1985	354,291,751	\$ 45,308,146
1986	461,091,864	\$ 60,400,595
1987	338,540,364	\$ 44,200,958
1988	548,465,538	\$ 77,852,082
1989	372,167,258	\$ 57,220,627
1990	476,092,596	\$ 72,942,800
1991	200,004,035	\$ 31,343,891
1992	365,308,622 <sup>4</sup>	\$ 54,339,650 <sup>5</sup>
1993E	298,941,103 <sup>5</sup>	\$ 47,711,000 <sup>7</sup>

## CRS-6

## NOTES

<sup>1</sup> Sources: Donald K. Anderson, Clerk of the House of Representatives; Office of Senate Postmaster; and U.S. Postal Service officials. The author wishes to acknowledge and thank the above people for their assistance. The FLITE (Federal Legal Information Through Electronics) data base search was also used. In addition, committee hearings, committee reports, floor debate, and public laws were reviewed. However, not all subcommittee and full committee mark-up figures are available. Accordingly, in instances where there were reductions from the amounts requested (for both regular and supplemental appropriations), these figures are presented in the tables. However, the reasons for the cuts are not always evident from the public documents. Where reasons are presented, they are cited in the notes.

<sup>2</sup> The figures from 1972 to 1977 regarding outgoing mail volume for the House, Senate, and Congress are based on a 1984 phone conversation by the Clerk's office with the U.S. Postal Service. The U.S. Postal Service source is a summary document of volume and payment data for House and Senate. The year 1972 is as far back as the Postal Service had records on mail volume.

<sup>3</sup> The transition quarter (July 1, 1976 to September 30, 1976) was required as a result of the change in the beginning of the Federal Government fiscal year from July 1 to October 1. The FY 1976 Legislative Branch Appropriations included funds for FY 1976 and for the three-month transition period. Because the transition quarter was a one-time accounting device, the data for the transition quarter is included in the tables, but not the graphs.

<sup>4</sup> USPS letter November 12, 1992.

<sup>5</sup> USPS letter November 12, 1992.

<sup>6</sup> The FY 1993 outgoing mail volume of 298,941,103 pieces of mail for the House is a United States Postal Service estimate based on \$47,711,000 appropriated by the Congress (P.L. 102-392, Legislative Branch Appropriations, FY 1993).

<sup>7</sup> The FY 1993 outgoing mail costs for the House is the amount appropriated by the Congress (P.L. 102-392, Legislative Branch Appropriations, 1993).

TABLE 4. Senate, Cost and Volume of Outgoing Official Mail,  
Fiscal Years 1972-1993 (Est.)<sup>1</sup>

Fiscal year	Outgoing official mail	
	Number of pieces sent	Cost <sup>2</sup>
1972 <sup>3</sup>	59,796,687	\$ 4,783,735
1973	86,187,506	\$ 7,576,301
1974	97,357,698	\$ 9,520,673
1975	99,492,733	\$ 11,467,479
1976	106,558,72	\$ 14,633,188
	30,194,561	\$ 4,250,238
Trans. qtr. <sup>4</sup>	86,346,092	\$ 13,559,185
1977	96,097,000	\$ 13,817,000
1978	86,526,101	\$ 15,213,555
1979	111,172,349	\$ 18,484,220
1980	133,300,675	\$ 24,175,800
1981	263,608,855	\$ 40,143,989
1982	221,190,032	\$ 32,126,335
1983	338,399,231	\$ 43,608,944
1984	321,982,710	\$ 39,852,648
1985	297,649,018	\$ 35,538,040
1986	156,193,086	\$ 19,423,954
1987	256,532,131	\$ 35,507,565
1988	226,545,488	\$ 32,283,506
1989	88,095,425	\$ 15,001,842
1990	59,780,774	\$ 11,744,034
1991	92,717,793 <sup>5</sup>	\$ 17,422,313 <sup>6</sup>
1992	N.A.	\$ 20,000,000 <sup>7</sup>
1993E		



CRS-8

## NOTES

<sup>1</sup> Sources: Donald K. Anderson, Clerk of the House of Representatives, and U.S. Postal Service officials. The author wishes to acknowledge and thank the above people for their assistance. The FLITE (Federal Legal Information Through Electronics) data base search was also used. In addition, committee hearings, committee reports, floor debate, and public laws were reviewed. However, not all subcommittee and full committee mark-up figures are available. Accordingly, in instances where there were reductions from the amounts requested (for both regular and supplemental appropriations) these figures are presented in the tables. However, the reasons for the cuts are not always evident from the public documents. Where reasons are presented, they are cited in the notes.

<sup>2</sup> These costs are only for the cost of official (franked) mail sent by Congress. Excluded are the cost of stamps purchased. The U.S. Postal Service views franked mail as revenue.

<sup>3</sup> The figures from 1972 to 1977 regarding official mail costs for the House, Senate, and Congress, are based on a 1984 phone conversation by the Clerk's office with the U.S. Postal Service. The U.S. Postal Service source is a summary document of volume and payment data for House and Senate. The year 1972 is the earliest year for which the Postal Service has records on mail volume and official mail cost.

<sup>4</sup> The transition quarter (July 1, 1976, to September 30, 1976) was required as a result of the change in the beginning of the Federal Government fiscal year from July 1 to October 1. The FY 1976 Legislative Branch Appropriations included funds for FY 1976 and for the three-month transition period. Because the transition quarter was a one-time accounting device, the data for the transition quarter is included in the tables, but not the graphs.

<sup>5</sup> USPS letter November 12, 1992.

<sup>6</sup> USPS letter November 12, 1992.

<sup>7</sup> P.L. 102-392, Legislative Branch Appropriations, 1993. Based on historic trends, this number will most likely be reduced. In FY 1991, the Senate spent \$11.7 million.

JP:db

II

**CONGRESSIONAL SUPPORT AGENCIES**



Congressional Research Service • The Library of Congress • Washington, D.C. 20540

January 29, 1993

TO : Joint Committee on the Organization  
of Congress

FROM : Frederick M. Kaiser  
Specialist in American National Government  
Government Division

SUBJECT : General Accounting Office

We are providing the attached information in response to your questions about the origin, organization, function, budget, and products of the General Accounting Office (GAO).

The General Accounting Office is one of four congressional support agencies. It is located at 441 G Street, N.W. Washington, D.C.

The General Accounting Office (GAO), which operates under the control and direction of the Comptroller General, was established as an independent auditor of Government agencies and activities, by the Budget and Accounting Act of 1921 (42 Stat. 23, now codified at 31 U.S.C. 701 et seq.). The same legislation also created the Bureau of the Budget, now the Office of Management and Budget in the Executive Office of the President.

Sometimes referred to as "Congress' watchdog" and the "investigative arm of Congress," GAO was designed to be "independent of the executive departments" which it would audit and review (31 U.S.C. 702(a)). The Office provides a variety of services to Congress largely connected to the oversight, investigation, and review of executive operations and activities.

For Fiscal Year 1993, GAO received an appropriation of \$435,167,000 and authorized staff of 5,062 fulltime equivalent positions (106 Stat. 1720).

### **Legislative History**

**Establishing Authority.** The Budget and Accounting Act of 1921 built upon efforts two years before to transfer the duties and responsibilities of the comptrollers and auditors from the Treasury Department to an entity independent of the executive departments. The earlier legislation, however, was

vetoed by President Woodrow Wilson, who objected to a section allowing for the removal of the new Comptroller General by Congress alone, through a concurrent resolution.<sup>1</sup> This provision was later changed to allow for the removal of the Comptroller General by a joint resolution, which must therefore be signed by the President or his veto overridden.

The 1921 enactment abolished the post of Comptroller and Assistant Comptroller of the Treasury along with the six auditors in the Department. Their personnel, records, and resources were transferred to the new General Accounting Office. The establishing authority also vested GAO with the powers and responsibilities of the auditors and comptroller of the Treasury, some of which extended to the Treasury Act of 1789.

The legislation also gave the new Comptroller General broad authority to "investigate, at the seat of government or elsewhere, all matters relating to the receipt, disbursement, and application of public funds" (42 Stat. 25). To augment this, the head was given extensive access to information in "all departments and establishments . . . regarding the powers, duties, activities, organization, financial transactions, and methods of business of their respective office as he may from time to time require" (42 Stat. 26).

Adding to the new position, the law authorized the Comptroller General to make recommendations for legislation "to facilitate the prompt and accurate rendition and settlement of accounts and concerning such other matters relating to the receipt, disbursement, and application of public funds as he may think advisable" (42 Stat. 25-26). The initial authority, moreover, established new reporting requirements to Congress and directed the Comptroller General to make special investigations and reports when ordered by either House of Congress or by any committee with jurisdiction over revenue, appropriations, and expenditures.

**Other Budget and Financial Statutes.** The scope of GAO activities has been extended by other statutes dealing with the finances and expenditures of the Federal Government. The Government Corporation Control Act of 1945, for

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<sup>1</sup> For President Wilson's veto message, see Darrell Hevenor Smith. *The General Accounting Office: Its History, Activities, and Organization*. Baltimore, Johns Hopkins University Press, 1927. 60-61. For additional background information and studies of GAO and its head, see, among others: Harvey C. Mansfield. *The Comptroller General*. New Haven, Yale University Press, 1939; Frederick C. Mosher. *The GAO: The Quest for Accountability in American Government*. Boulder, Westview Press, 1979; Joseph Pois. *Watchdog on the Potomac: A Study of the Comptroller General of the United States*. Washington, University Press of America, 1979; Roger R. Trask. *GAO History, 1921-1991*. Washington, GAO, 1991 (Report No. OP-3-HP); and Wallace E. Walker. *Changing Organizational Culture: Strategy, Structure, and Professionalism in the U.S. General Accounting Office*. Knoxville, University of Tennessee Press, 1986.

instance, provided for GAO audit authority over mixed-ownership government corporations (59 Stat. 600-601). The Budget and Accounting Procedures Act of 1950 directed the Comptroller General to prescribe principles and standards for accounting in executive agencies (64 Stat. 835). Building on this, the Federal Manager's Financial Integrity Act of 1982 required each agency to establish internal accounting and administrative controls in accordance with standards prescribed by the Comptroller General (96 Stat. 814). Furthermore, the Chief Financial Officers Act of 1990 gave the Comptroller General enhanced audit authority and the power to review financial audits conducted by an inspector general or an external auditor (104 Stat. 2852-2854).

**Legislative Reorganizations.** Major legislative reorganization efforts have also augmented GAO's powers and independence. The Legislative Reorganization Act of 1946 directed the Comptroller General to make an "expenditure analysis of each agency in the executive branch" (60 Stat. 837). And the 1970 counterpart expanded GAO's assistance to congressional committees and strengthened its program evaluation responsibilities (84 Stat. 1167-1171). This authority was later modified by the Budget and Impoundment Control Act of 1974 (88 Stat. 326).

### **Appointment and Removal of Comptroller General and Deputy**

The Comptroller General and Deputy Comptroller General are appointed by the President, with the advice and consent of the Senate; the Comptroller General is limited to a single 15-year term. When a vacancy occurs in the office of the Comptroller General or the Deputy, a bipartisan congressional commission is established to recommend individuals to the President for appointment; the commission must recommend at least 3 individuals and the President may ask for additional names for consideration. The commission consists of the Speaker of the House, President pro tempore of the Senate, the majority and minority leaders of the House and Senate, the chairman and ranking minority members of the Senate Committee on Governmental Affairs and the House Committee on Government Operations, and, when the Deputy's post is vacant, the Comptroller General.

The Comptroller General or Deputy may be removed by impeachment or by a joint resolution of Congress. In the latter case, this can occur, however, only after notice and an opportunity for a hearing and only for certain specified reasons: permanent disability, inefficiency, neglect of duty, malfeasance, felony conviction, or conduct involving moral turpitude.

### **Activities and Services**

The General Accounting Office performs a variety of activities, operations, and services, which can be grouped under four main categories.



- **Audits and evaluations of Government programs and activities** are the most prominent of GAO's activities. These occur at the specific direction of public law, at the request of congressional committees, subcommittees, and individual members (if the request can be accommodated), or under the independent authority of the Office itself. Based on the findings and conclusions of these reviews, the Comptroller General may make recommendations for administrative or statutory changes.
- **Accounting and financial management services** involve GAO in several activities: prescribing accounting principles and standards for executive agencies; advising Federal agencies on fiscal policies and procedures; and setting standards for auditing and evaluating Government programs. The Comptroller General, along with the Secretary of the Treasury and Director of OMB, also develops standardized information and data processing systems.
- **Legal services** that are provided by GAO to Congress include: assistance in drafting legislation and reviewing legislative proposals; advice to Members and committees of Congress about legal issues involving Government programs; and reviews and reports on proposed; rescissions and deferrals of Government funds. In addition to these services to Congress, GAO also resolves bid protests that challenge Government contract awards, assists Government agencies in interpreting the laws governing the expenditure of public funds, and adjudicates claims for and against the Government.
- **Special investigations of suspected violations of Federal criminal and civil law** are conducted by GAO. This most recent addition to its services typically involves cases of conflict of interest, questions of ethics, or procurement and contract fraud.

## Products

GAO provides a range of products for Congress, including official testimony at congressional hearings, oral briefings for individual legislators, panels, and staff; assignment of staff to congressional panels, and written products. The written products include short letters to individual Members or panels, fact-sheets providing information and statistics on a subject, and reports, which might contain recommendations for corrective measures to problems uncovered by the review.



Congressional Research Service • The Library of Congress • Washington, D.C. 20540

February 5, 1993

TO : Joint Committee on the Organization of Congress

FROM : Clay H. Wellborn *CHW*  
 Specialist in American National Government  
 and Coordinator of Division Research  
 Government Division

SUBJECT : Congressional Research Service<sup>1</sup>

In response to your request, this memorandum reviews the origin, mission, products and staffing of the Congressional Research Service.

#### Mission

The Congressional Research Service works exclusively for Members and committees of the U.S. Congress, providing objective, timely, and confidential research, analysis, and information. Specifically, CRS supports the Congress with:

- professional and confidential assistance to committees in all states of the legislative process;
- written policy and legal analyses, in-person and telephone consultations, and briefings tailored to address specific questions posed to CRS by Members and committees on virtually all legislative and public policy issues;
- information and research products designed for general distribution and written to meet the needs of many congressional clients; these include CRS reports, Issue Briefs, Info Packs, bill digests, bibliographies, and video and audio briefs;

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<sup>1</sup>Some of the information in this memorandum is drawn verbatim from statements of CRS mission, services, history, organization, and staffing published elsewhere.

## CRS-2

- in-person assistance in CRS reading rooms, reference centers, and information distribution centers strategically located around Capitol Hill;
- seminars and workshop programs on the full range of issues before the Congress and education and training programs on congressional procedures and the legislative process.

In summary, CRS's range of assistance includes products and services designed to meet legislative and representational requirements for research, analysis, and information on all legislative public policy issues of significance to the Congress.<sup>2</sup>

### Services and Products

CRS provides in-depth policy analyses, legal research, legislative histories, and tailored research for Members and committees of Congress. CRS staff present seminars and briefings, help prepare hearings, draft bill comparisons, and help committees prepare committee reports. CRS provides rapid reference and a range of other informational services including background information, bibliographies, statistics, biographies, quotations, books, articles, reports, legal and governmental publications, and translations. CRS staff offer direct in-person service at six CRS reading rooms and consult with members and staff in Capitol Hill offices. By design, telephone access to CRS analysts and specialists is fast and easy by Members and staff of Congress.

In carrying out their research, CRS staffers make use of a broad variety of automated information sources. Finally, services encompass audio briefs and audiovisual formats as well as oral presentations in individualized briefings. For more information on CRS products and services, see the enclosed *Guide to Services*.

Provisions of law and guidelines established by the Joint Committee on the Library set forth certain limitations on CRS services. These limitations are listed on p. 2 of the enclosed *Guide to Services*.

In fiscal year 1992, requests completed and services provided to the Congress totaled approximately 665,000.

### Origin

Although the Library of Congress was created to support the work of the Congress, the Congressional Research Service was organized in July 1914 as the "Legislative Reference Service" within the Library of Congress to provide exclusive, specialized services to Congress, its committees, and Members. In

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<sup>2</sup>This mission statement is also set forth in descriptive information published by each of the four congressional support agencies.

## CRS-3

1946, the Service was given permanent status as a separate department of the Library. It was instructed to employ specialists and senior specialists whose expertise was comparable to that of Executive Branch specialists and who would cover a number of broad public policy areas for the Congress. The Legislative Reorganization Act of 1970 changed the name of the Service to the "Congressional Research Service" and made the Service more directly accountable to the Congress, giving it greater administrative and fiscal independence. The 1970 Act also directed CRS to place more emphasis on research, analysis, and information to support the committees of Congress in their legislative and oversight functions.

**Organization**

CRS has nine divisions and several specialized offices. Seven divisions conduct research and policy analysis<sup>3</sup>, one division provides fast reference service, and one division provides library and bibliographic support for CRS analysis, research, and reference work for the Congress.<sup>4</sup>

**Staff**

By 1946 the Legislative Reference Service, as CRS was formerly known, had a staff of 131. In 1970, the staff had grown to 334. Subsequent to congressional mandates contained in the 1970 Legislative Branch Reorganization Act the CRS staff grew rapidly but leveled off in the 1980s and subsequently declined. In 1984 the staffing level was 893; by 1993 it had declined to 835.

I trust this information meets your needs, if I can be of further assistance, please call me at 7-7545.

Encl.

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<sup>3</sup>These divisions deal with American Law, Economics, Education and Public Welfare, Environment and National Resources Policy, Foreign Affairs and National Defense, Government, and Science Policy Research.

<sup>4</sup>These divisions are the Library Services Division and the Congressional Reference Division, respectively.



Congressional Research Service • The Library of Congress • Washington, D.C. 20540

January 29, 1993

TO : Joint Committee on the Organization of Congress

FROM : Sandy Streeter  
Analyst in American National Government  
Government Division

SUBJECT : Congressional Budget Office (CBO)

This memorandum is in response to your request for information on CBO.

The Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344, 88 Stat. 297, 2 U.S.C. 601-688) established CBO. Under the Act, CBO came into existence the day the first director of CBO was appointed, which was February 24, 1975. CBO was established to provide a Congressional source of budgetary information, in contrast to the previous practice of Congressional dependence on Executive Branch information.

The Act provided the duties and functions of CBO in section 202, which is enclosed. CBO provides a more detailed explanation in their publication entitled *A Profile of the Congressional Budget Office*.

The CBO publication mentioned above also discusses CBO products, that excerpt is also attached.

Finally, the Office of Personnel Management's most accurate figures are for August 1992, with 228 employees.

If you have any questions, please contact me at 7-8653.





Congressional Research Service • The Library of Congress • Washington, D.C. 20540

## Memorandum

January 29, 1993

TO : Joint Committee on the Organization of Congress

FROM : Genevieve J. Knezo *GJK*  
Specialist in Science and Technology  
Science Policy Research Division

SUBJECT : **Office of Technology Assessment: Background Information**

We are providing the attached information in response to your questions about the origin, organization, function, budget, and products of the Office of Technology Assessment (OTA).

The Office of Technology Assessment is one of four congressional support agencies. It is located at 600 Pennsylvania Ave. S.E., Washington, D.C.

### Origins

Two forces converged during the late 1960s and early 1970s, leading to the creation of the Office of Technology Assessment. One was the momentum of the environmental movement and the belief that the Congress was ill-equipped to foresee adequately the consequences of technology. The second was the belief that the Executive branch and outside groups often presented the Congress with biased or incomplete information about impacts of technology on society and that the Congress had to equip itself with a mechanism to obtain timely and unbiased information and analysis on this topic. After a long series of hearings and studies covering a period of six years, the Congress, in 1972, authorized the establishment of the Office of Technology Assessment. (P.L. 92-484, Technology Assessment Act of 1972.)

### Functions

See the enclosed print Office of Technology Assessment: Background and Status for a copy of P.L. 92-484, which gives OTA's formal functions.

The concept of technology assessment arose first in Congress during discussions about eliminating adverse impacts of technology on the environment. As the concept crystallized in the mid- to late-1960s, it focused on development of an early warning system to help policy makers eliminate the adverse consequences of technology, and to determine how technology could assist the attainment of policy goals.<sup>1</sup> By 1972, when the OTA enabling legislation was enacted, the concept encompassed also problem-initiated as well as technology-initiated assessments, and examination of beneficial as well as negative impacts.<sup>2</sup> Also by the time of enactment, the definition was broadened to include "soft" as well as "hard" technologies.<sup>3</sup> This evolution, in effect, produced a broad definition of technology assessment to include analysis of how complex public policy issues that do not focus specifically on technology might be affected by technology.

OTA appears to have broadened the concept of "technology assessment" further to encompass analysis for Congress of any complex issue involving science and technology. Thus it defines its task as follows:

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<sup>1</sup> U.S. Congress. Senate. Committee on Rules and Administration. Subcommittee on Computer Services. Technology Assessment for the Congress. 92d Congress, 2d Session. Staff Study, Nov. 1, 1972. Washington, U.S. Govt. Print. Off., 1972: Document is attached. p. 11-13.

<sup>2</sup> On these points see appendix A, "Extended Definitions of Technology and Technology Assessment," In Technology Assessment for the Congress, op. cit., p. 69-71.

<sup>3</sup> Thus, technology assessment was defined by the Senate Committee on Rules and Administration in the report on the bill that was enacted as follows: Technology assessment is a term used to identify a process for generating accurate, comprehensive, and objective information about technology to facilitate its effective social management by political decisionmakers. Specifically, technology assessment is the thorough and balanced analysis of all significant primary, secondary, indirect and delayed consequences or impacts, present and foreseen, of a technological innovation on society, the environment or the economy. It is not a search for only the adverse effects of a technology; it is not a determination that a technology should or should not be employed; it is not a mechanism for arresting the development of technology. The term "technology" may communicate too limited a notion to many who hear the words "technology assessment." It is important to note that "technology" also includes the so-called "soft" or social technological inventions along with the more commonly thought of physical objects and materials. (U.S. Congress. Senate. Committee on Rules and Administration. Technology assessment Act of 1972. Report to accompany H.R. 10243. 92d Congress, 2d Session. Senate Report 92-1123, Sept. 13, 1972. Washington, U.S. Govt. Print. Off., 1972. p. 19.)

## CRS-3

OTA's job is to provide congressional committees with objective analyses of the emerging, difficult, and often highly technical issues of the late 20th Century. It explores complex issues involving science and technology, helping Congress to resolve uncertainties and conflicting claims, identify alternative policy options, and providing foresight or early alert to new developments that could have important implications for future Federal policy. OTA does not advocate particular policies or actions, but points out their pros and cons and sorts out the facts.<sup>4</sup>

**Assessment Products**

OTA is directed to conduct its work in an objective, nonpartisan manner. It does not make recommendations, but lays out policy options. Its primary products are major, broad based studies, which typically take one to two years to complete and which receive substantial contribution from outside contractors and advisory panels. In addition OTA prepares shorter background studies, on more narrowly defined topics. The latter typically will take two to six months to complete. One of the hallmarks of OTA's work is continuous involvement of expert scientists, technologists, and stakeholders from the affected communities. We are including a copy of the latest catalogue of publications.

**Assessment Requests**

Unlike CRS or GAO which are required to respond to requests generated by all members of Congress, subcommittee or committees, the OTA enabling legislation specifies that requests for assessment may be made only by: the chairman of any congressional committee acting alone or at the request of the ranking minority member or of a majority of committee members; the OTA Board; and the OTA Director, in consultation with the Board. To begin a major study, Board approval is required.

Procedurally, this means that once a request is received, the OTA staff screens the study to determine resource needs and compatibility with OTA's mission. If approved, the staff presents a formal study proposal to the Board, which makes a decision about whether to proceed.

On occasion, Congress, via legislative enactments other than appropriations, has mandated OTA to conduct assessments or perform other functions. The Board opposes such mandates and tries to discourage them since, its says, the demand for OTA assistance exceeds resources.<sup>5</sup> Among other functions

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<sup>4</sup> U.S. Office of Technology Assessment. What OTA Is. What OTA Does. How OTA Works. Washington, Apr. 1987. OTA-PC-104 (Revised). p. 6.

<sup>5</sup> U.S. Congress. House. Committee on Appropriations. Subcommittee on Legislative Appropriations. Legislative Branch Appropriations for 1993. Hearings before a Subcommittee. Part 1. Justification of the Budget Estimates. 102d Congress, 2d Session. Washington, U.S. Govt, Print. Off., 1992. p. 279.

mandated by Congress to OTA are appointing Members of health-related commissions for: Alzheimer disease, the Prospective Payments Assessment Commission, and the Physician Payment Review Commission for Medicare Review.

### **The Organization of OTA<sup>6</sup>**

This section deals with the Board, Advisory Council, staff and office organization. The budget is summarized.

#### **The Board**

OTA is governed by a 12-member, bipartisan Congressional Board on which the OTA Director serves as a nonvoting member. The Board consists of six Senators and six Representatives, evenly divided by party and appointed by the President pro tempore of the Senate and the Speaker of the House, respectively. The Board elects a Chairman and Vice Chairman. The posts alternate between the Senate and House in succeeding Congresses, and the Vice Chairman is a member of the majority party in that branch. The Vice Chairman is from the other branch and party.

#### **The Advisory Council**

The Board is aided by an Advisory Council made up of 10 public members eminent in science, technology and education, who are appointed by the Board for four year terms. The U.S. Comptroller General (director of the U.S. General Accounting Office) and the Director of the Congressional Research Service are *ex officio* members. The Council advises the Board on OTA assessments and other matters.

The OTA also generally establishes an advisory panel of expert scientists and representatives of stakeholders for most the assessments it conducts.

See the enclosure listing members of the Board and the Council.

#### **The Director, Deputy Director, and Organization of the Office**

The Director, who is appointed by the Board for a six-year term, has full authority and responsibility for organizing and managing OTA's resources according to the policies set by the board. OTA has had three directors, as follows:

Emilio Q. Daddario, 1973 to 1977  
Russell Peterson , 1977 to 1979

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<sup>6</sup> Some of this information is from: U.S. Congress. Office of Technology Assessment. What It Is. What It Does. How It Works. Washington, Dec. 1979. OTA-PC-104.



John Gibbons, 1979 to 1993. (Confirmed as Director of the Office of Science and Technology Policy and President Bill Clinton's Science Advisor, January 28, 1993.)

Current acting director, Roger Herdman

OTA is authorized to have a deputy director, who is appointed by the Director with the approval of the Board.

Currently the OTA has three assistant directors, who are not required by the statute to have Board approval, but usually receive it.

The analytical work of the Office is organized into three divisions, each headed by an assistant director. They are Energy, Materials, and International Security Division; Health and Life Sciences Division; Science, Information, and Natural Resources Division. These divisions produce assessments relating to energy and materials; international security and commerce; industry, technology, and employment; biological applications; food and renewable resources; health; oceans and environment; science, education, and transportation, and telecommunication and computing technologies.

### **The Staff and Budget**

The size of OTA's permanent staff size is determined by Congress. During the fiscal year 1992 OTA had 143 permanent staff members, of which 75 percent, or 107, were analytical and 25 percent were administrative. Many of the analytical staff are Ph.D. professionals in the physical and social sciences, engineering, the biological and environmental sciences, political science, medicine, law, and public administration. These 143 positions were augmented during the fiscal year 1992 by 83 staff members, usually research assistants, classified as other than full time permanent, and 30 contracts providing on-site personal services.<sup>7</sup> These individuals are available for the duration of specific studies.

For fiscal year 1993, OTA sought, but was refused, authority for seven more permanent positions.

Personnel salaries and benefits were funded at slightly more than \$12 million in fiscal year 1992, with an additional \$4 million being expended for research contracts and program support.

OTA's first annual report to Congress for FY 1974 reported that the agency had 42 authorized positions and total obligations of \$2 million. OTA's budget was not given in its last annual report, for FY 1992, although the OTA director pointed out that OTA's budget has stayed the same in real dollars for the last

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<sup>7</sup> Legislative Branch Appropriations for 1993, Pt. 1, op. cit., p. 300.



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seven years<sup>8</sup> The appropriation for OTA for fiscal year 1993 was for \$21,025,000, \$2,643,000 less than requested.

We hope this information is useful. Please let us know if we can provide additional assistance.

Enclosures

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<sup>8</sup> U.S. Office of Technology Assessment. Annual Report to the Congress. Fiscal Year 1992. OTA a-554, Jan. 1993. p. 4.

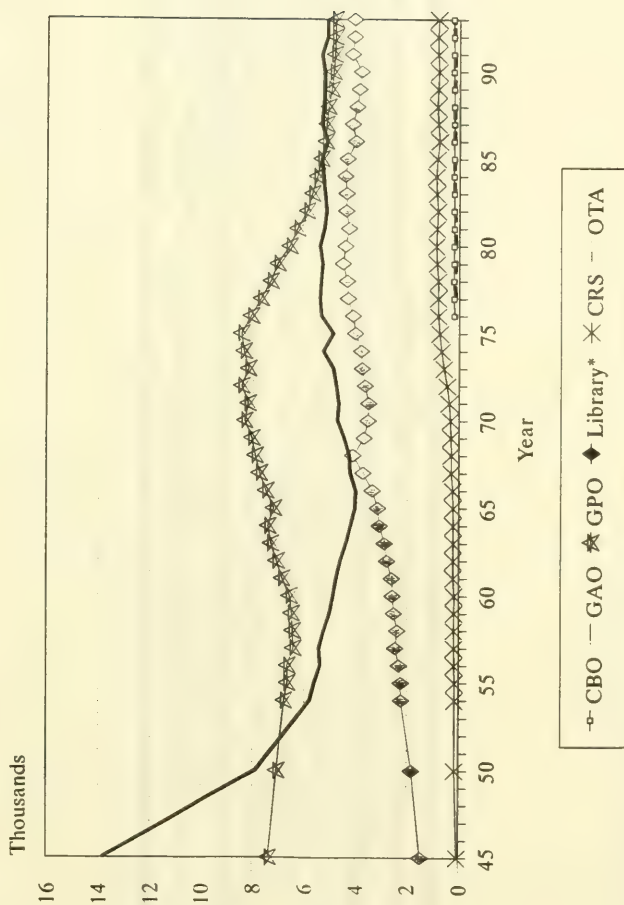


Congressional Research Service • The Library of Congress • Washington, D.C. 20540

STAFFING OF LEGISLATIVE SUPPORT AGENCIES: SELECTED YEARS (1945-1993)

John Pontius  
Paul Rundquist  
Paul Dwyer  
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Specialists in American National Government  
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May 12, 1993

Graph 1. Legislative Support Agency Employment  
Selected Years, 1945-1993



Prepared by CRS from OPM and agency data  
\* Library of Congress, excluding CRS

TABLE 1. Staffing of Legislative Support Agencies: Selected Years (1945-1999)<sup>1</sup>

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TABLE 1. Staffing of Legislative Support Agencies: Selected Years (1946-1993).<sup>1</sup>

	1974	1976	1976	1977	1978	1979	1980	1981	1982	1983
Congressional Budget Office <sup>2</sup>	NA	NA	197	205	217	207	210	207	208	208
General Accounting Office	6,287	4,897	6,372	6,428	6,386	6,329	6,434	6,269	6,186	6,248
Government Printing Office	8,866	8,444	8,077	7,598	7,325	7,069	6,810	6,310	6,936	6,742
Library of Congress, Excluding CRS <sup>6</sup>	3,804	4,039	4,131	4,332	4,376	4,636	4,436	4,303	4,415	4,402
Congressional Research Service <sup>9</sup>	676	746	806	810	805	867	888	869	825	873
Office of Technology Assessment <sup>3</sup>	NA	NA	NA	136	191	140	138	160	172	186



CRS-3

TABLE 1. Staffing of Legislative Support Agencies: Selected Years (1946-1993).<sup>1</sup>

	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993
Congressional Budget Office <sup>2</sup>	220	213	220	212	216	219	234	230	233	233
General Accounting Office	6,910	6,374	6,164	6,382	6,319	6,284	6,283	6,378	6,166	6,166
Government Printing Office	6,647	6,591	6,223	6,202	6,126	4,997	4,934	4,883	4,864	4,864
Library of Congress, Excluding CRS <sup>6</sup>	4,460	4,363	4,036	4,172	3,992	3,915	3,822	4,189	4,099	4,126
Congressional Research Service <sup>9</sup>	893	862	768	819	858	829	797	831	838	811
Office of Technology Assessment <sup>2</sup>	210	194	198	202	201	196	190	197	214	209

TABLE 1. Staffing of Legislative Support Agencies: Selected Years (1945-1993)<sup>1</sup>

<sup>1</sup> The table shows the number of Legislative Branch employees for selected years 1945-1993. Except where noted for 1945 and 1950, sources for employment statistics are the Workforce Analysis and Statistics Division, Office of Personnel Management (OPM) and the Clerk of the House. Prior to 1989, statistics were published in the "Monthly Report of Federal Employment." From 1989 to 1986, OPM statistics were published in the "Federal Civilian Manpower Statistics - Monthly Release." Since then, they have been published in a bimonthly publication entitled, "Federal Civilian Workforce Statistics, Employment and Trends." These figures reflect those as of December of each year, except 1993 which reflects January statistics (the latest available). Table includes those legislative entities under the jurisdiction of the House and Senate Legislative Branch Appropriations Subcommittees. Staff for joint entities are included by OPM under Senate and House.

<sup>2</sup> The legislative entity did not exist as indicated by NA.

<sup>3</sup> Source for 1945 and 1950 is GAO. Before 1950, GAO was responsible for auditing all individual federal transactions and keeping a record of them. Legislation in 1950 transferred these responsibilities to the Executive Branch, hence reducing staff substantially. Prior to FY1968, GAO was funded under Independent Offices regular appropriations bills. In FY1968, GAO was funded as part of Legislative Branch regular appropriations bills. For consistency, GAO is included in this table for all years. GAO figures vary slightly in OPM report and in GAO History 1921-1991, by Roger Trask.

<sup>4</sup> Source is GPO for January 31, 1945.

<sup>5</sup> Source is GPO for June 30, 1950.

<sup>6</sup> Source is OPM for total number of Library of Congress (LOC) employees. Figures for each year reflects OPM total LOC employees minus figure provided by Congressional Research Service for CRS employees.

<sup>7</sup> Figure was not available for 1945. Figure of 1,457 is for December 29, 1946. Source is Annual Report of Librarian of Congress, FY 1947.

<sup>8</sup> June 25, 1950. Source is Annual Report of the Librarian of Congress, FY 1950.

<sup>9</sup> Source is CRS. Figures are employees on payroll as of September 30 of each year, except for January, 1993. OPM does not provide CRS statistics, but only a total for Library of Congress.

TABLE II - CONGRESSIONAL SUPPORT AGENCIES BUDGET AUTHORITY, FY 1945-FY 1993E  
(Constant Dollars, in Thousands)

Prepared for the Joint Committee on the Organization of Congress

Adele Faber  
Analyst in American National Government  
Government Division

May 11, 1993

TABLE II - CONGRESSIONAL SUPPORT AGENCIES BUDGET AUTHORITY, FY 1945-FY 1993E\*  
(Constant Dollars, in Thousands)<sup>1</sup>

	1945	1950	1955	1960	1965	1968	1969	1970	1971	1972	1973	1974
General Accounting Office <sup>2</sup>	309,123	210,420	172,554	204,199	214,077	225,846	234,875	261,894	285,583	308,583	318,491	320,862
Congressional Research Service, Library of Congress <sup>3</sup>	1,430	4,302	4,840	7,108	11,077	13,916	15,248	17,453	20,183	25,039	29,816	33,411
Library of Congress, Ex. Congressional Research Service	34,487	45,018	46,747	62,764	99,466	139,452	147,512	156,079	168,986	211,794	227,810	222,133
Office of Technology Assessment	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	5,866
Congressional Budget Office	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

\*Permanent excluded.

## CRS-2

TABLE II - CONGRESSIONAL SUPPORT AGENCIES BUDGET AUTHORITY, FY 1945-FY 1993E\*  
(Constant Dollars, in Thousands)—Continued

	1975	1976	TQ	1977	1978	1979	1980	1981	1982	1983	1984	1985
General Accounting Office <sup>2</sup>	335,937	342,829	83,718	374,839	389,622	370,276	358,517	350,925	353,633	366,821	378,145	402,762
Congressional Research Service, Library of Congress <sup>3</sup>	36,881	43,708	11,124	48,964	51,100	50,895	48,943	47,228	47,358	51,162	52,373	54,202
Library of Congress, Ex. Congressional Research Service	228,640	259,790	61,431	289,890	296,202	296,956	267,399	246,776	245,210	252,535	265,935	252,525
Office of Technology Assessment	12,622	16,717	3,608	17,576	19,253	19,320	19,653	17,789	18,235	18,995	20,641	21,088
Congressional Budget Office	n/a	12,371	2,825	22,852	23,065	22,642	21,736	19,915	19,818	21,914	23,274	23,573

\*Permanent excluded.



TABLE II - CONGRESSIONAL SUPPORT AGENCIES BUDGET AUTHORITY, FY 1945-FY 1993E\*  
(Constant Dollars, in Thousands)—Continued

	1986	1987	1988	1989	1990	1991	1992	1993
General Accounting Office <sup>2</sup>	380,038	395,834	403,177	405,042	397,461	434,482	456,252	435,167
Congressional Research Service, Library of Congress <sup>3</sup>	49,196	51,468	52,586	52,107	50,693	55,084	58,705	57,291
Library of Congress, Ex. Congressional Research Service	228,555	237,667	234,866	233,004	229,280	254,130	254,389	252,808
Office of Technology Assessment	19,318	21,176	20,658	20,917	20,330	20,763	21,628	21,025
Congressional Budget Office	21,321	22,636	21,862	21,411	21,274	22,489	23,688	22,542

\*Permanent excluded.

## CRS-4

1. Source is Budget of the U.S. Government for each year. For FY 1945, figures were designated "appropriations" rather than budget authority. All figures were rounded.
2. Prior to FY 1966, the General Accounting Office was listed under Independent Agencies, not Legislative Branch, in budget documents. The General Accounting Office is included in this table because it was later funded under Legislative Branch Appropriations.
3. Congressional Research Service was known as the Legislative Reference Service until 1971.

## SUMMARY OF OPTIONS FOR REFORM OF CONGRESSIONAL STAFFING

### I. COMMITTEE STAFF.

- A. Reduce staff sizes or funds for staff.
- B. Increase core committee staff: limit subcommittee and associate staff.
- C. Require a certain proportion of staff to be non-partisan.
- D. Allow each House committee's minority party Members 1/3 of all staff (2/3 for the majority).
- E. Improve the allocation of resources among committees.
- F. Require written job descriptions, salaries by position, and benefits policies.
- G. Strengthen staff training programs.
- H. Increase hiring of short-term consultants and agency detailees.
- I. Restrict the role of detailees.
- J. Prohibit executive agencies from detailing staff without reimbursement.
- K. Require more uniformity of disclosure of committee staff and funding (in Secretary of the Senate and Clerk of the House Reports).
- L. Authorize House committee budgets biennially.
- M. Consolidate funding of House committee budgets.
- N. Allow for floor amendment of House committee funding resolutions.

### II. PERSONAL OFFICE STAFF.

- A. Reduce the size of House and Senate personal staffs.
- B. Reduce staff salaries.
- C. Enhance staff capabilities.
- D. Establish a centralized office of constituent services in each chamber.
- E. Adopt hiring standards comparable to those used by the executive branch.
- F. Bring Congressional benefits in line with those received by other federal employees.
- G. Assure pay equity.
- H. Ensure uniformity and enforcement of House and Senate regulations on the use of staff and expense allowances for campaign purposes.

### III. CONGRESSIONAL INFORMAL GROUPS: LSOs AND CAUCUSES.

- A. Require all informal groups to submit to regulation.
- B. Strengthen current regulations governing LSOs.
- C. Expand current regulations to address the association of LSOs with institutes.
- D. Eliminate LSO dedicated staff.
- E. Eliminate LSOs.

**IV. SUPPORT AGENCIES.**

- A. Consolidate support agencies.
- B. Require periodic reauthorizations for those activities now permanently authorized.
- C. Establish limits on usage.
- D. Adopt cost awareness measures.
- E. Combine oversight.
- F. Reduce overlap and duplication of functions.
- G. Streamline agency organizations.
- H. Adopt criteria for and restrictions on support agency details to committees.
- I. Reduce workloads.

**V. ADMINISTRATIVE REFORMS.**

- A. Coordinate management of non-legislative services in the Senate and House.
- B. Consolidate and reduce officers.
- C. Create compatible House-Senate systems.
- D. Centralize security.
- E. Privatize or contract out services.
- F. Revise financial practices.
- G. Consolidate oversight.
- H. Require periodic reauthorization.
- I. Establish joint leadership management.
- J. Professionalize employment practices.
- K. Eliminate inappropriate services; pay for appropriate services.
- L. Revise policies on space usage and availability.

## OPTIONS FOR REFORM OF CONGRESSIONAL STAFFING

### I. COMMITTEE STAFF.

#### A. Reduce staff sizes or funds for staff.

Reduce the total number of staff or the aggregate level of funds for staff, through an immediate or phased-in reduction, and through across-the-board or selected cuts.

- Pro:**
- Staffs are too numerous, powerful, and costly. They insulate Members and erode their control; perform work that Members are elected to do; and add to, rather than alleviate, the large committee workload.
  - Reductions would save the Congress money; might pressure the executive branch to trim its large bureaucracy; and might increase public confidence in Congress if the legislature is seen as sharing in national belt-tightening and improving its organization and operation.
  - Across-the-board cuts could be perceived as easy to make and equitable by treating all committees the same.
  - Immediate reductions could quickly reduce the congressional budget.
- Con:**
- Staff reductions could endanger Congress's ability to manage its encyclopedic and complex committee workload, and force committees to reduce activities.
  - Reductions could decrease assistance to junior and to minority members, and might spur increases to personal staff.
  - Committee staff sizes have not grown considerably since the late 1970's; earlier increases were essential for establishing an information source independent from the executive branch. If staff levels were reduced, Congress's ability to function as a co-equal branch of Government might be jeopardized, and committees might become more dependent on agencies and interest groups.
  - Across-the-board cuts would penalize those committees already operating efficiently and frugally.
  - Immediate reductions are difficult to implement, and do not allow for savings through attrition and for gradual adjustment to lower levels of staff or funds.
  - Members are currently overworked, and would have little time to take on any tasks that staff would cease to perform.



**B. Increase core committee staff: limit subcommittee and associate staff.**

Centralize committee staff by limiting subcommittee staff, and by banning or reducing associate staff. It is common in the Senate, and less so in the House, for Members to designate committee staff to serve at their pleasure.

- Pro:**
- Increased staff centralization would diminish difficulties of taking action and achieving consensus, and give committee leaders greater capacity, along with accountability, to set an agenda and to act on it.
  - Subcommittee cuts would increase policy making by full committees, and might facilitate cuts in panels.
  - Associate staff do not contribute significantly to committee business, and Members have sufficient access to committee staff making the practice outdated. Most House committees operate smoothly without associate staff, making their need on a few committees questionable.
- Con:**
- Increased core staff could reduce access to staff by rank and file Members.
  - Subcommittee staff cuts could reduce subcommittee independence; diminish the policy making abilities of the smallest and most specialized work units; and result in a transfer of workload to already overburdened full committees.
  - Associate staff provide highly professional and specialized assistance in accordance with Members' particular needs.

**C. Require a certain proportion of staff to be non-partisan.**

Designate a fixed percentage of each committee's staff as non-partisan, or designate specific job positions or duties as non-partisan.

- Pro:**
- Separate majority and minority staffs result in much duplication of effort, wasting time and funds. Certain functions, including administrative ones, could be efficiently performed by staff working for all committee Members, and a unified staff could increase the amount and quality of oversight.
  - Non-partisan staff could reduce the detrimental partisan nature of committee deliberations, facilitating compromise and output.
- Con:**
- Each party needs separate staff to assure an independent analysis of issues, and to fully develop its arguments and present its positions. The majority needs staff to govern; the minority needs staff for its role of effective criticism.

- It is unrealistic to expect committees to operate smoothly with non-partisan staff given the partisan nature of the institution.

**D. Allow each House committee's minority party Members 1/3 of all staff (2/3 for the majority).**

Accord the minority party members of each House committee a greater share of committee staff or funds, with full control of the same. Currently the minority is entitled only to one-third of the 30 authorized statutory positions, and not more than 20% of funds for investigative staff. Increase the minority share through attrition or through immediate reductions in majority staff. Further, require agency detailees to work for both parties, or allow each party to employ its own.

- Pro:**
- Minority staff levels are insufficient for effective and constructive minority participation. The minority is precluded from obtaining an independent analysis of issues, fully developing arguments, and performing its role of effective criticism. Effective criticism improves debate and presents the public with more choices upon which informed judgments are made.
  - Increased resources might encourage a constructive minority role in more situations, and might more fully satisfy the minority, decreasing partisanship and increasing comity.
  - Permitting full control of the minority's staff and resources, such as the authority to independently hire and fire staff, set staff salaries, and authorize staff travel, is necessary for a truly independent minority role.
  - Improved minority access to detailees promotes an equitable distribution of all resources, and might reduce funds spent on permanent minority staff.
- Con:**
- Current minority resources are adequate, and significantly larger resources appropriately accrue to the party chosen by voters to govern and run Congress.
  - Increasing the minority allotment may mean either substantial funding increases, or displacement of majority party staff.
  - If the minority is better able to create roadblocks to majority actions, partisanship could intensify and gridlock could result.
  - Full minority control of certain resources and staff might divide committees more than is necessary or desirable, and could result in duplication of expenditures for common items such as subscriptions and equipment.

**E. Improve the allocation of resources among committees.**

Improve the allocation of resources between chambers, and among committees in each chamber, perhaps through a uniform ratio of committee staff to Members.

- Pro:** • Committee staff and funds are unfairly divided. Some committees in a chamber have twice as many staff as others, and the House has twice as many committee staff as the Senate for the same work. Staff and funds need to be apportioned among committees in accordance with current workload, jurisdiction, and circumstances; today's levels stem from historical conditions.
- A uniform ratio of staff to Members would equitably distribute resources among panels, and also may help promote staff reductions.
- Con:** • Different House and Senate staffing levels are justified given the House's large size and greater reliance on committees, and because more legislation begins in the House. Differences between panels in each chamber are justified due to variations in workload, jurisdiction, and the policy agendas of committees.
- A uniform ratio of staff to Members would not be feasible without changes including reorganization to equalize committee workloads and jurisdictions.

**F. Require written job descriptions, salaries by position, and benefits policies.**

For all committees, establish uniform, written job descriptions, salaries by position, and benefit policies, e.g. vacation, sick, and family leave, and retirement. Alternatively, require each committee to adopt its own, and make such standards public.

- Pro:** • Lack of written job descriptions and policies have resulted in unclear, confusing, arbitrary, and discriminatory policies. Written policies would promote predictability, fairness, and professional management of the Hill, and decrease political factors that weigh heavily in hiring, firing, and pay decisions.
- Con:** • Each committee needs the flexibility to establish its own criteria for employment and benefits, and to tailor duties, salaries, and benefits to each individual staff member. Given the diverse array of duties associated with each type of staff position, and the need for constant adjustment to changing circumstances, it would be impractical to fix duties and salaries.

**G. Strengthen staff training programs.**

Require regular training programs for committee staff, in areas including parliamentary procedure, drafting legislation, and planning and managing hearings.

- Pro:**
- Staff often lack the specialized skills necessary for drafting and amending legislation, planning and managing hearings, and conducting investigations and oversight. Mandatory or suggested training courses could increase the expertise, professionalism, and quality of committee staff work.
  - Enhanced training could improve job satisfaction and thus promote longer tenure, increasing the institutional memory and professionalism of committees.
- Con:**
- Staff training programs would be quite costly given the large numbers of committee staff and the diverse array of duties performed. Moreover, training may not be cost effective, due to quick staff turnover.

**H. Increase hiring of short-term consultants and agency detailees.**

Encourage more hiring of short-term consultants and staff detailed from government agencies, in lieu of full time staff.

- Pro:**
- They allow committees to acquire temporary expertise that is lacking.
  - Executive branch detailees promote good relations between the branches, and legislative support agency detailees provide Congress with more direct and better service for which it already is paying.
  - Meeting temporary needs by these means, rather than hiring permanent staff, reduces costs. Savings are especially significant where committees do not provide benefits to consultants or reimburse agencies for detailees.
- Con:**
- Congress should have sufficient funds to hire its own permanent experts, and should not depend on increased ad hoc arrangements and agency handouts.
  - Committees may have insufficient funds to employ consultants and reimbursed detailees when needed, and the uncertainty of their continued employment may ill affect planning and activities. Further, employing detailees and consultants might be too time consuming to be practicable in crisis situations.
  - Detailees may have vested interests in protecting their agencies or certain positions, rather than the necessary independent attitude and judgment. Separation of powers questions could arise, e.g., in the case of detailees from a particular agency assisting with an investigation of that agency.

**I. Restrict the role of detailees.**

Limit the role of detailees to particular types of duties, and restrict their duration.

- Pro:**
- "Inherently committee functions" should not be performed by detailees; for example, organizing hearings, interviewing witnesses, drafting statements and questions, and writing investigative reports should be performed only by committee staff. Restrictions similar to those on contractors should cover detailees, and detailees should be limited to providing special expertise.
  - Due to extensions, the service length of many detailees (and consultants) often equals that of permanent staff. Stricter limitations are needed to prevent detailees from supplanting committee staff who are truly responsible for legislation.
- Con:**
- Committees need to be able to choose outside aides and assign them duties according to need. Restrictions on their duties, or stricter tenure limitations, may limit committee planning, crafting of legislation, analysis, or oversight.
  - Strict, fixed tenure limits could interrupt, delay, or curtail committee activities, and committees may have insufficient resources to replace detailees.

**J. Prohibit executive agencies from detailing staff without reimbursement.**

Allow executive agency detailees to committees only if the agency is reimbursed, and require periodic, public disclosure of such details.

- Pro:**
- Employing detailees on a reimbursable basis encourages their loyalty and militates against temptations for more outside assistance than necessary.
  - Agencies undergoing budgetary difficulties with possibilities of downsizing may be less likely to permit Hill details and may need reimbursement for detailees.
- Con:**
- Congress could achieve significant cost savings by temporarily employing experts from the executive branch without reimbursement.
  - Agency generosity in providing free staff fosters good relations between the branches. Moreover, detailees and their agencies gain significant professional benefit from working on the Hill, making reimbursement unnecessary.



**K. Require more uniformity of disclosure of committee staff and funding (in Secretary of the Senate and Clerk of the House Reports).**

In the Reports of the Secretary of the Senate and Clerk of the House, require more uniform disclosure of each committee's 1) annual expenditure figures, for total expenses and for costs of separate items, such as travel, 2) total staff, including non-salaried ones, with annual salaries for paid employees, 3) use of reprogrammed funds affecting committees, and 4) for the House, the level of annual authorized statutory funds.

- Pro:**
- Lack of full, uniform disclosure impedes Members and staff in their analysis of committee costs and management; enhanced disclosure would allow for better-informed decisions on funding levels and staffing needs.
  - Improved disclosure enhances public understanding of Congress's operations, and provides more complete information for evaluating elected officials.
- Con:**
- Current disclosure standards are adequate. The reports of the Clerk of the House and Secretary of the Senate provide detailed information on committee staffs and costs, and these documents are widely available.

**L. Authorize House committee budgets biennially.**

Establish a biennial cycle for funding House committees. Currently "investigative staff" are authorized annually, and "statutory staff" are permanently authorized.

- Pro:**
- A biennial cycle would substantially reduce the workload of committee leaders and staff who prepare budget information and testify annually, and of the Committee on House Administration.
  - A longer cycle facilitates longer term planning and continuity of activities.
  - Because the House operates on a biennial cycle, its budget should correspond. Two year budgeting for Senate panels gets favorable reviews in that chamber.
- Con:**
- The uncertainty of the congressional agenda might preclude accurate forecasts of activities and funding needs for more than one year at a time. Because committees can not anticipate issues affecting their jurisdiction, they may overestimate initial funding needs; alternatively, they may require frequent supplemental authorizations, which the House has all but eliminated.
  - A longer cycle might reduce consensus on funding activities, and might weaken one of Congresses most potent short term control devices.

- An annual authorization may allow the management committee and the House to exercise better oversight; in an era of large deficits, it may be better to focus attention on spending as often as possible.
- A longer authorization cycle might necessitate a change in the role of the appropriators to a two year cycle. Otherwise, the influence of the Appropriations Committee might increase at the expense of the authorizers.

**M. Consolidate funding of House committee budgets.**

For each committee (including Appropriations and Budget) and for House costs of joint committees, fund all salaries and expenses through one periodic resolution. This change abolishes the distinction between statutory and investigative staff.

- Pro:**
- The current arrangement is complex and arcane. A simpler and more consolidated and uniform process aids comparisons of committee activities and facilitates efforts to cut costs.
  - Some reasons for the current process may be outdated, e.g., the historical notion of a permanent complement of staff per committee (statutory) with the possibility of additional, temporary ones (investigative). Today there are few truly temporary employees; investigations change in nature, but persist.
  - All authorizations should be scrutinized in committee and on the floor, whereas currently funds for statutory staff and for the Appropriations and Budget Committees are not subject to the annual authorization process.
- Con:**
- Current procedures are straightforward and satisfactory, and the proposed procedure could overburden the House's administrative panel with new duties.
  - The proposal might increase committee expenditures by spurring raises for investigative staff to statutory levels, which generally are higher.
  - Congress permits many permanent authorizations to manage its business efficiently, and adequately regulates these activities through the appropriations and oversight process.

**N. Allow for floor amendment of House committee funding resolutions.**

Require a separate, amendable funding resolution for each committee, or permit the omnibus funding resolution to be open to amendment (unlike the current practice in which the omnibus resolution is not easily amended).

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- Pro:**
- A separate resolution for each committee allows more focused, cleaner consideration of each funding issue. It allows the House to accept or reject the funding level for a particular committee without affecting other panels.
  - Allowing for amendment gives the House more input into funding decisions. Rank and file Members would have more authority to determine funding.
- Con:**
- Funding each committee separately could be time consuming; before 1981, separate funding of each committee's investigative activities sometimes consumed weeks of floor time and took more than 20 recorded votes per year.
  - A single resolution permits the House easier assessment of total funding, and the comparative and cumulative effects of individual funding decisions.
  - A single, unamendable resolution provides an expeditious means of processing relatively routine legislation, fashioned after detailed review by the House Administration Committee. The House can agree or not agree to this proposal. Failure to agree will cause the House Administration Committee to redraft the resolution in accord with House sentiments. In this way, repeated criticisms and needlessly contentious floor debate can be minimized.

## II. PERSONAL OFFICE STAFF.

### A. Reduce the size of House and Senate personal staffs.

Reduce the maximum staff slots for House personal offices from the current 18 full time and 4 part time positions; for the Senate which currently has no maximum number of staff slots for personal offices (staffs range from the mid 20s to the mid 70s), this option would institute a variable maximum number of slots based on state population.

- Pro:**
- Although staffing bloat is more often associated with committee staffs, personal staff reductions also are needed in the overall effort to mitigate redundancy, reduce complications and unsnarl the legislative process. In other words, reduced staffs will induce efficiencies.
  - Many heads and hands do not automatically correlate with legislative productivity and sagacity; rather, the creation of work, unnecessary conflict and overreach are often the end products.
  - A positive signal will be transmitted to the public.

- The overcrowding of Congressional buildings, especially in the House, will be relieved.
  - The effective functioning of Congress will not be impacted by reducing staffing if a full utilization of information and management tools is undertaken. Indeed, reducing the maximum from 18 to 16 staff per Representative would have little affect; 15 to 16 is the current norm.
  - Reduced levels of staff will save money if the funds allocated for staff are accordingly reduced; however, if the allotments remain the same while staff levels are cut, Members may opt to pay larger salaries to fewer staff.
- Con:**
- To increase the capacity of the Congress to respond to the changing polity, staffs grew from the end of World War II to the late 1970s, when they reached their current levels. Increased staff was part of an orchestrated plan to ensure that the Congress functioned as a co-equal and separate branch of government. Reduced staffs may lead to Congress losing its hard-won independence and, more reliance for information, policy proposals and analyses on the executive branch and interest groups.
  - The belief of Congressional overstaffing is only an impression. Indeed, the current complement of approximately 38,000 legislative employees stands in diminution to the two million plus civilian executive branch workers.
  - There is no evidence that future Congressional agendas will be less full than they are today, thereby requiring fewer staff.
  - That reduced staff will somehow encourage Members to take up some of the analytical and contemplative lag is a misplaced assumption. Members have little time for intensive study now and fewer staff will make for even less time.

#### **B. Reduce staff salaries.**

Reduce the salaries of staff in House and Senate personal offices.

- Pro:**
- Salary is just one aspect of the desirability of a job. The status and stature associated with a Member's office makes employment there a privilege.
  - Providing a constrained salary insures a healthy turnover and a continual infusion of new staff possibly with new ideas and new talents.
  - A robust turnover allays any concern that the Congress is run by the staff.

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- Con:**
- The average 1992 salary for all positions in the House and Senate was well below the average federal employee's salary; and federal pay is well below the average private sector pay.
  - Reducing the current personal staff salary would accelerate an already alarming rate of high turnover, would precipitate the plummeting of staff morale and would promote mediocrity in staffing as the more talented could bypass the chance to work in a Member's office.
  - Increased turnover and mediocrity could combine to give the employing Member much less in worker productivity; constituent work as well as legislative policy making would suffer. Thus, the image of Congress in the eye of the public would worsen.

**C. Enhance staff capabilities.**

Provide for the upgrading of staff skills, abilities, knowledge and capabilities by the creation and expansion of training and education programs, in-house and off-site.

- Pro:**
- Enhanced staff capability is a goal attained only with a commitment to training. With lower salary levels than comparable positions in the executive branch and in the private sector, a staff member often does not come to a Member's personal office with professional credentials such as experience, education and competency in information technology systems. Nevertheless, a Member office can create, with a good infusion of training, a professional corps that will serve the Member, the district/state and the Nation well.
  - Training increases morale, enhances productivity, fosters commitment to the job and promotes loyalty to the institution.
- Con:**
- Even if the creation of a professional staff were a worthy goal, the costs are prohibitive at this time. Also, there is no guarantee that the commitment of scarce Congressional resources to training would reverse the high turnover rate -- in other words, there is no guarantee of a return on investment.
  - Developing a professional staff may have unintended consequences: conflict among staff as to whom receives training, the creation of an entitlement mentality and contribution to the impression that staff run Congress.

**D. Establish a centralized office of constituent services in each chamber.**

An office of congressional staff services would be available to Members for their use in handling bulk mail, casework and other ancillary duties.



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- Pro:** • Any adverse effect caused by reductions in personal staff would be mitigated.
- Office technology systems could be optimally utilized, thereby inducing efficiencies and saving money.

- Con:** • The tradition of Member offices responding personally to constituent inquiries is deeply embedded and would be difficult to change.
- Knowledge of a centralized office may create among constituents a feeling of disenfranchisement, and a further erosion of public support for the institution.

**E. Adopt hiring standards comparable to those used by the executive branch.**

The personal offices would utilize a centralized placement service to standardize staffing, including strict recruitment and classification procedures and salary schedules.

- Pro:** • Staff professionalism, including experience, education and competency in modern information technology, could be greatly enhanced.
- The recruitment process would be expedited, time and money saved, and high-quality applicants assured.
  - The arbitrariness in hiring and firing would be diminished, contributing to employee confidence in the basic fairness of the system.

- Con:** • Political factors are crucial in the hiring of personal staff. Possibly unique to the Congress, personal staff must be fiercely loyal, personally dedicated and politically astute. Standardized hiring procedures have no place for these vital political considerations.
- To institute standardized rules for hiring and firing while retaining employment flexibility for a Member is an illusion.
  - Increasing professionalism in personal staff is a chimera as long as salary levels remain low and turnover remains high.

**F. Bring Congressional benefits in line with those received by other federal employees.**

Provide standardized benefits to all staff, removing the current discretionary authority enjoyed by Members as to what benefits to provide their personal staffs.

- Pro:** • Standardizing benefits -- such as annual, sick, and maternity/paternity leave, and bonus and raise policies -- could improve employee morale and remove staff tension and staff-to-staff contention. Also, routinized procedures for allocating benefits allow for predictability and create an impression of fairness.
- Con:** • The call to bring Congressional benefits in line with those of other federal employees may be a red herring because in many ways they are already comparable, and in some cases they are more generous. For example, most Member offices provide for maternity/paternity leave unlike the rest of the federal government; and the retirement system for Congressional employees is widely regarded as more generous than that for the executive branch.

**G. Assure pay equity.**

Ensure that congressional staff doing the same work receive the same pay.

- Pro:** • Pay parity, a concept currently being considered by OPM in its review of the classification system, could boost morale and reduce staff tensions by giving employees the assurance that they are receiving a fair shake.
- Realized or imagined inequities could be minimized.
- Con:** • To implement a system of pay parity, a rather elaborate administrative machinery, for which no prototype system exists, would have to be put into place, costing a great deal of time, staffing and money.
- Mechanisms for enforcement would be difficult to devise.

**H. Ensure uniformity and enforcement of House and Senate regulations on the use of staff and expense allowances for campaign purposes.**

House and Senate regulations on point now differ in some significant degrees.

- Pro:** • The public has a low respect for the Congress partly due to the perception of ethical, financial and political improprieties. One persistent image is that staff are used for the Members' personal, political needs and not in the service of constituents and the welfare of the Nation. Chamber rules and allowance regulations differ on the use of expense funds during election campaigns and the permissible use of personal staff for political purposes. These differential treatments should be eliminated in the interest of fairness and uniformity of regulation, and adherence to the regulations should be assured.

- Con:**
- Political benefits -- or political drawbacks -- are inherent in official business. To pretend to separate official activities from political activities is a charade which the public will soon recognize. It is far better to educate the public on the nature of the political system.
  - Differences in House and Senate allowances and staffing regulations are almost inherent in a bicameral system. Even if uniformity were achieved through any reform suggested by the joint committee, that uniformity cannot be guaranteed into the future.

### III. CONGRESSIONAL INFORMAL GROUPS: LSOs and CAUCUSES.

#### A. Require all informal groups to submit to regulation.

Eliminate the distinction between Legislative Service Organizations (which are currently regulated by the House Administration Committee for House and bicameral groups) and all other informal groups in the House; require the Senate to adopt formal regulations on caucuses.

- Pro:**
- Proliferation of caucuses, currently numbering 128, contributes to the fracturing of Congress and impedes the legislative development of public policy; caucuses for the most part are seen as platforms for district credit claiming and advertising. This proliferation has been enhanced by the lack of regulation; notably, the establishment of a caucus requires no more than an announcement by the chair, and its continuation requires no membership minimum or regular activities. Bringing all informal groups under an umbrella of regulation would ensure that they are legitimate entities with defined membership and services. Current regulations require LSOs to maintain a certain minimum membership and to file quarterly reports describing the general legislative services provided during the report's time period.
  - The regulation of all caucuses would enable public scrutiny and would result in placing caucuses in the sunshine.
- Con:**
- Informal groups are as old as the Congress itself; to attempt the regulation of the Members' desire to form associational groups beyond the formal party and committee apparatus would be futile.
  - Whatever regulations were devised, certain informal groups would form beyond its sweep.

**B. Strengthen current regulations governing LSOs.**

Require LSOs to follow generally accepted accounting procedures as well as financial procedures adhered to by Member and committee offices.

- Pro:**
- The 1982 regulations do not require an accurate reflection of the transactions of LSO funding -- funding which in all cases derives from House accounts. Members may contribute to LSOs from either their personal staff account or expense account, making it difficult to trace the payment of LSO staff.
  - Quarterly reports filed by LSOs with the Clerk of the House contain serious discrepancies between receipts and expenditures.
  - LSOs, unlike Member and House committee offices, may carry over funds from Congress to Congress, and use federal funds to pay for food and entertainment for Members.
  - Action in this area is already underway. The FY 1993 Legislative Branch Appropriations Act required the GAO to develop new accounting standards for the LSOs. Also, the House Administration Committee recognizes the deficiencies of current LSO accounting procedures and has been working with LSO directors to bring the LSOs under more stringent accounting procedures.
- Con:**
- LSOs have not been given sufficient opportunity to address the allegations of financial improprieties.
  - LSOs are not formal structures and should not be expected to follow the same procedures as the party apparatus, Member offices and committees.

**C. Expand current regulations to address the association of LSOs with institutes.**

Revise the regulations to require an LSO to report on its affiliation with an institute and to prohibit an LSO member from sitting on the board of the institute related to that LSO.

- Pro:**
- Currently, LSOs are not required to reveal connections with private sector research institutes; in some cases this connection is widely known, in others it is more obscure. However, in general the association is a cause of concern due to the perception of financial and ethical impropriety. A preliminary count indicates that nine institutes are presently affiliated with LSOs.

- Some argue that institutes are a consequence of the 1982 regulations that prohibit LSOs from receiving private sector funding and are, in fact, just a rechanneling of that private source of money. Credence is given this assumption in those cases where a Member sits on the board of the institute. Many have said that the institute/LSO nexus is a scandal waiting to happen. The GAO in its preliminary draft of new regulations for the LSOs has recommended that LSOs report on their affiliations with these institutes.

- Con:**
- There is no evidence to suggest that Members on the board of institutes are in any way prejudiced by the donors to that institute to act in their behalf.
  - Institutes derive their agenda from their mentor LSO and in many ways perform praiseworthy services. For example, the Congressional Black Caucus Foundation sponsors various fellowship and scholarship programs in an effort to encourage black Americans to participate in the legislative process.

**D. Eliminate LSO dedicated staff.**

Remove the current capability of an LSO to maintain a dedicated staff and relatedly to occupy separate office space.

- Pro:**
- Assuming that Congressional staff is bloated and needs to be reduced, an easy first cut would slice off any staff unrelated to official functions.
  - The elimination of LSO staff would not hinder the functioning of the Congress, and could even promote the effectiveness of the legislative process by reducing the splintering of the institution. Many argue that Congressional staff in general are generators of peripheral or unnecessary workloads and agendas, and that LSO staff in particular create tasks to justify their existence.
- Con:**
- LSO staff, although hard to quantify exactly, represents a tiny portion of the overall Congressional staff; thus, its elimination in toto would hardly be noticed.
  - Unofficial status cannot be equated with unimportant functions. LSOs and their staff provide critical information to their Members, present well-researched legislative alternatives and perform strategic integrative functions by crossing the boundaries of parties, committees and chambers.



- In those instances where an LSO and its staff perform a well-recognized and well-regarded function, such as the informational function of the Democratic Study Group and the Republican Study Committee, the elimination of the LSO would only amount to the transfer of its function and staff to another body, e.g. the Democratic Party leadership could absorb the DSG, and, therefore, no reduction in staff would be ultimately made.

#### **E. Eliminate LSOs.**

While maintaining the current ban on the receipt of all private funds by Member groups, cease to give any special recognition to certain informal groups or to enhance their status with the ability to draw on Member clerk/hire and expense allowances for group activities. (For the 103rd Congress, 26 caucuses are certified by the House Administration Committee as LSOs.)

- Pro:**
- Caucuses further splinter an already decentralized institution, making policy formulation all the more difficult; indeed, caucuses are bothersome and even destructive. While it is impossible to prohibit the coming together of Members in informal groupings, the Congress should not sanction and promote the institutionalization of these entities by the granting of an official designation such as "Legislative Service Organization."
- Con:**
- Caucuses promote integrative functions by drawing together the parties, the committees and even the chambers.
  - Official recognition of certain informal groups, which abide by a set of requirements, separates those caucuses which truly perform legislative services from those which have been referred to as the "letterhead caucuses."
  - LSOs give attention to worthy issues which, for structural and other reasons, are not the focus of the official bodies. For example, LSOs would be useful replacements for the abolished House select committees.

### **IV. OPTIONS FOR SUPPORT AGENCIES.**

#### **A. Consolidate support agencies.**

Consolidate all four Congressional support agencies into one omnibus research, information and audit organization.

- Pro:**
- Consolidating the support agencies would reduce overlap and duplication of effort and simplify congressional oversight of support agencies. It would allow the agency to better prioritize its projects and services.

- The newly centralized staff would require fewer management staff than are now present, allowing reduced spending. Coordinated, multidisciplinary research activities would be easier to achieve.
- Con: • The agencies now have specific and complementary missions that might be impaired through consolidations. Their different missions also contribute to producing research with different perspectives that would likely end with a consolidation.
- A consolidation of the agencies would create an even larger bureaucracy likely to retard the provision of prompt service, and likely requiring the building of new central office spaces, or massive relocations of current congressional staff.

**B. Require periodic reauthorizations for those activities now permanently authorized.**

CRS, GAO, CBO, OTA, and GPO are now permanently authorized, and should be subject to periodic reauthorization as most executive agencies now are.

- Pro: • The agencies are now subject primarily to review and management on the most formal level by the Legislative Branch Appropriations Subcommittees, with varying levels of oversight by different House and Senate authorizing committees or by joint administrative units. Periodic reauthorization would require systematic oversight, review of agency mission, and reassessments on staffing needs and service requirements of the Congress. Few executive agencies or programs are permanently authorized; Congress should not treat its own agencies any differently.
- Con: • Frequent reauthorizations might jeopardize the independent, non-partisan nature of the agencies, subjecting them to increasing partisan controversy and tensions. The workload of the authorizing committees would increase for only marginal gains.

**C. Establish limits on usage.**

Establish a voucher system which allocates to Members a fixed number of vouchers for making requests to support agencies; system to measure services on a time-intensive, qualitative as well as a quantitative basis.

- Pro: • A voucher system, or other workload management device, might encourage Members and committees to more carefully consider requests to agencies, prompting them to prioritize. It is likely that agency workload would decline as a result of vouchers, possibly permitting agency staff reductions without a decline in the quality of the remaining services and products.

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- Research product quality would also increase if fewer peripheral requests interfered with longer, more complex projects.

**Con:** • Members and committees have varying demands on time so any "limits" on use are likely not to work and/or prove unfair and unwise. OTA and CBO already have "limits" under their enacting laws, while GAO tends to coordinate Congressional and statutorily assigned work. Accordingly, any voucher system would likely be limited in application to CRS. Given the types and volume of assistance it renders, it is hard to imagine a workable voucher system.

- Member and committee staff could not absorb additional workload of projects traditionally assigned to support agencies that might not be performed in the future.

#### **D. Adopt cost awareness measures.**

Establish notification programs that make Members and committees aware of their use of each support agency and the consequences of their demands. Relatedly, establish programs that train Congressional staff to do more of their own work.

**Pro:** • Training programs for staff would optimize the value and skills of Congressional staff.

- Awareness programs may sensitize Members and committees to abuse or misuse of support agencies and produce voluntary curbs.

**Con:** • Much Congressional staff turns over rather quickly so training may have limited long-term payoff.

- Agencies were created as pooled resources with knowledgeable staff to assist with all aspects of lawmaking, oversight, and constituent service, so why discourage their use. Also, demands for personal staff increases may result.

#### **E. Combine oversight.**

Combine legislative and oversight jurisdiction over support agencies into one committee.

**Pro:** • Such consolidated legislative and oversight jurisdiction would make for a more comprehensive and cohesive oversight of the agencies and clarify committee responsibility over agencies.

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- Combining duties over support agencies would reduce the role of staff (in the absence of formal committee action) in current, ad hoc, agency oversight.

**Con:** • Much oversight occurs during the appropriations process and will continue to do so. It is uncertain, therefore, what real gains would materialize from a single oversight committee.

**F. Reduce overlap and duplication of functions.**

Further reduce overlap and duplication of effort among the agencies.

**Pro:** • Informal and sporadic cross-agency consultations would be replaced by continuous liaison. These contacts would help streamline, prioritize, and coordinate work of support agencies, possibly permitting staff and funding reductions.

**Con:** • An entity already exists to promote coordination among the support agencies; it would be impossible to eliminate duplication when 540 Members, almost 300 committees and subcommittees, and several thousands of staff are at liberty to call upon each agency to some degree or another.

**G. Streamline agency organizations.**

Restructure agencies, using OTA as a model, to have smaller permanent staff supplemented by contractors as needed.

**Pro:** • Reducing permanent staff and increasing use of temporary and consultant staff would dramatically reduce staffing and benefits costs of agencies. The agencies would enjoy greater staff flexibility in responding to shifts in workload and congressional demand.

- Consulting arrangements would enable agencies to draw on expertise of a wide range of individuals depending upon the need, and to use experts who are not available for full-time career work with the agencies.

**Con:** • There would not be adequate staff to address the ever-increasing short-term, quick response requirements of Congress.

- The cost to Congress may be even greater because of the high fees that private consultants charge.
- Employing consultants may be too time consuming to be of use on any but the longest-term research projects.

**H. Adopt criteria for and restrictions on support agency details to committees.**

Revise the law on congressional committees' right to obtain detailees from congressional support agencies; revise procedures for their use by committees; restrict usage of detailees.

- Pro:**
- Support agency staffs were meant to be a pooled resource. Detailing their staff for long periods of time to a committee reduces the availability of detailed employees to all of Congress.
  - In some instances, a disparity is believed to exist between the majority and minority regarding obtaining the services of and having access to detailees. New guidelines and procedures for use could resolve these concerns.
  - At a minimum, committees should reimburse agencies for any detail of more than, say, 30, 60, or 90 days, thereby providing funding that would enable the agency to hire temporary help while a detailee is away.
- Con:**
- Instances arise in which it makes sense for a support agency employee to be detailed to a committee. Overly restricting the right of committees to obtain the services of such employees may work to a greater disadvantage for Congress than having the employee remain in his/her agency.
  - In revising criteria for obtaining and using detailees care must be taken not to render them unavailable for appropriate work and not to jeopardize their status during the period of detail or upon their return to their parent agency.
  - Committees often simply lack funding for reimbursement yet would benefit substantially from detailee assistance. Also, detailees (even if unreimbursed) can provide Congress with assistance for which it has already paid via the appropriations process.

**I. Reduce workloads.**

Reduce the functions of the support agencies or the draws that are permissible on them, for example, by restricting assistance to executive branch agencies and other non-Congressional units, and limiting types of congressional services as well.

- Pro:**
- Reducing assistance to executive agencies frees support agency staff to concentrate on legislative assistance. A reduced executive agency demand might permit downsizing of agencies, without a loss in services provided the Congress.



- Con:** • It is not likely that functions can be permanently eliminated or transferred to the executive branch. Historical trends have shown more work being assumed by the Congress that formerly was within executive purview.
- Non-Congressional demands on the support agencies are fairly minimal with the possible exception of GAO. Therefore, purported benefits of restrictions are likely to be less in practice than they might seem in theory.

## V. OPTIONS FOR ADMINISTRATIVE REFORMS.

### A. Coordinate management of non-legislative services in Senate and House.

Establish a Senate counterpart to the House Director of Financial and Non-Legislative Services and House Inspector General (auditor); alternatively, establish joint administrator post and central bicameral audit staff.

- Pro:** • A non-partisan Senate administrator would foster more complete professionalization in the Senate administration of these functions. The required bipartisan appointment process is an additional benefit.
- Con:** • There have been no major management scandals in the Senate indicating that the current management system is flawed. Informal consultation among Senate officers minimizes duplication of services and allows better coordination.
- Many administrative staff positions in the Senate are historically not filled on a partisan basis, and there is no generally perceived need for further reforms there.

### B. Consolidate and reduce officers.

Further consolidate, or reconfigure, duties among officers of the House and Senate, e.g. eliminate the House Doorkeeper, combine duties under a single officer in each House, eliminate elected officers altogether and rely on professional administrators.

- Pro:** • Such a consolidation and transfer of function would further depoliticize housekeeping and administrative functions. Removal of sitting administrators would be easier than removing officers now. Certain functions such as the House Doorkeeper's office would become unnecessary after transferring non-legislative services to the new post of Director and concentrating legislative functions in the Clerk of the House.

- A parallel structure of officers in the House and Senate would enhance functions in shared areas (for example, capitol police supervision).

**Con:** • Congress is a political institution and some degree of political accountability by senior staff is desirable in a political institution. It is not clear that removing officers from the political atmosphere on Capitol Hill is appropriate or whether non-political administrators and their staff would develop into another uncontrollable bureaucracy.

**C. Create compatible House-Senate systems.**

Where possible coordinate the House-Senate provision of equipment (e.g., telecommunications, computers) and services (e.g., radio-TV studios, libraries, page schools, document rooms, computer centers).

**Pro:** • Combined and consolidated services would save money and are likely to be more efficient. Centralization prevents unwarranted duplication of services and the installation of incompatible equipment and products.

- Consolidation would maximize access between chambers in equipment and services.

**Con:** • Each chamber loses some control over these functions that have been previously exclusive. Management disputes between the House and Senate on minor issues (appropriate computer hardware, for instance) might be difficult to resolve and needlessly disruptive to the work of Members and committees.

- Bicameral disputes can also undermine policy continuity, as shown in delays in appointing a new CBO director and Capitol Police chief.

**D. Centralize security.**

Centralize management of congressional security forces: abolish separate House and Senate "details" for Capitol Police; merge security personnel of Library of Congress and other support units into central force; give police personnel responsibility for chamber security instead of civilian doorkeepers; alter composition and management of Capitol Police Board.

**Pro:** • A single police force would be in charge of the security for the Hill. Significant sums could be saved by consolidating administrative functions and communications.

- Individuals experienced in security would be providing chamber (as well as Capitol buildings and grounds) security. Current Doorkeeper staff could be phased out and replaced by better trained Capitol Police.
- The stalemates that have characterized the current Capitol Police Board (such as the delays encountered in hiring the last Capitol Police chief) might be prevented should Capitol Police management be changed.
- The Architect of the Capitol has shown little interest in mediating disputes between House and Senate Sergeants at Arms.

- Con:**
- The House, Senate, and Library of Congress each need their own police force to provide adequate security, appropriate to their respective needs. The current security outside each chamber is adequate.
  - The current three-member Capitol Police Board is still the best way to oversee the Capitol Police. Possibly another officer could replace the Architect, if needed.

**E. Privatize or contract out services.**

Where supported by cost-benefit analysis, privatize or contract out certain services such as gymnasium, health care, restaurant, gift shop, beauty and barber shops, and banking. Assign officers of the House and Senate the task of initially identifying services subject to possible privatization or contracting out.

- Pro:**
- Systematic privatization of non-essential services could help mute criticism of Congress. Confidence on the part of the public that Members were not receiving services at cut-rate prices might increase, as Members paid market prices for most services.
  - Past contractor management difficulties might be overcome by the presence of a full-time House administrator who can better manage such companies and persons.
  - In the past, legislative staff generally have not been trained to effectively supervise food services and other facilities; past management difficulties might be minimized.
- Con:**
- Managing private contractors requires close attention to finances, services, and contract compliance. The recent unsuccessful experiences by the House restaurant service suggests that service privatization is not a panacea.

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- Wide use of contractors will result in loss of control, convenience, and quality of service by the Congress if privatized services were introduced inappropriately.
- The unpredictable congressional work schedule might preclude contracting and privatizing common in executive agencies where the work schedule is much more certain.

**F. Revise financial practices.**

Institute financial reporting, accounting, auditing, and/or budgetary practices that align with those of the rest of the Federal Government and/or contemporary business practices.

- Pro:**
- Revised procedures could assure better understanding of legislative funding and spending.
  - Congressional funds (especially the contingent account) would be subject to regular GAO audits now not routinely performed.
- Con:**
- Revised procedures could prove expensive at no real informational or accounting gain.
  - Congressional reporting now is more extensive than that required of any executive agency.

**G. Consolidate oversight.**

Streamline and more explicitly spell out in House and Senate rules, committee oversight of administration of the legislative branch [e.g., at least five entities oversee the four support agencies] by, for example, creating a Joint Committee on Administration.

- Pro:**
- Streamlining could bring about more cohesive and coherent oversight, guidance, and congressional direction.
  - Consolidated oversight would end fragmentation over a subject generally marginal to the duties of the committees currently having jurisdiction.
- Con:**
- Unless the Appropriations Committees were abolished, oversight is going to occur largely through them. Arguably, their Legislative Branch Subcommittees do the bulk of oversight now. It is uncertain, therefore, what is to be, or can be, gained.

**H. Require periodic reauthorization.**

Periodically reauthorize congressional administrative units, just as executive agencies and bureaus now are.

- Pro:**
- Periodic authorization provides a regularized opportunity for review and adjustment.
  - Requiring regular authorizations would end piecemeal, temporary and permanent changes in legal authorities now common through appropriations bills.
- Con:**
- It is not clear that this is needed or likely to prove worthwhile, because there are not significant problems with the current arrangement.
  - Complex legislative responsibilities would be added to committees not accustomed to such issues on a regular basis.

**I. Establish joint leadership management.**

Create a joint leadership unit to oversee administration of legislative branch.

- Pro:**
- Accountability, especially by party leaders, is strengthened.
  - The oversight authority would be transferred from committees with little active rank-and-file participation.
- Con:**
- Without demonstrated gains, this option creates more burden for leaders.
  - Most administrative duties are likely to fall to staff rather than be performed by leaders; thus, there would be no net gain over current system.

**J. Professionalize employment practices.**

Professionalize the recruitment, appointment, and supervision of all administrative employees.

- Pro:**
- Requiring professionalism of some staff services is now well-established, without complaints about efficiency or unique needs in a political environment. Applying professional staffing standards more widely could add talented staff throughout the Congress, and enhance predictability and fairness.



- Con:** • It is not clear that job standards and recruitment programs need to be undertaken for all Hill positions, especially those involving service personnel and unskilled labor. Moreover, establishing a centralized office for hiring and supervising administrative personnel would be quite costly.

**K. Eliminate inappropriate services; pay for appropriate services.**

Review administrative services provided Members to ascertain their appropriateness and, if appropriate, how their costs should be met.

- Pro:** • This option appropriately responds to the public's criticism of perks. Any payment for services would result in cost savings and gains in public confidence that elected officials are appropriately using their offices.
- Con:** • If taken too far, the elimination of so-called perquisites could strip Members of conveniences warranted by the work environment of the Congress and common in the Executive Branch and the private sector.

**L. Revise policies on space usage and availability.**

Re-examine use of space in the House and Senate and establish new policies (e.g., LSOs). Require a public inventory of space allocations in the Capitol Building, office buildings, and auxiliary congressional space (e.g., 400 North Capitol and the Judiciary Building).

- Pro:** • Studies of space allocations policies might result in savings, ideas for minimizing cramped office conditions that typify many Hill operations, and free up space for activities more essential to the legislative process.
- Data on space allocation would be assembled comprehensively for the first time since 1975.
- Con:** • Political leaders of the Congress require some flexibility and discretion in the allocation of space. More rigid standards may not be politically useful.
- Publication of space allocation data may open the Congress to additional criticism, and such data is not routinely disseminated by the White House, or executive agencies generally.

The Joint Committee on the Organization of Congress  
Database of Positional Statements

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## ISSUE AREA 10: CONGRESSIONAL STAFFING

### List of Options Proposed

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|--|--|
| 1. Reduce the Size of Congressional Staff and/or Funding                                   | 5. Reform the Current Detailee Process |
| 2. Reform the Current Committee Staff System   | 6. Reform Support Agencies             |
| 3. Require a Certain Proportion of Staff to be Non-Partisan                                | 7. Miscellaneous Comments              |
| 4. Allow Each House Committee's Minority Party Members 1/3 of all Staff (2/3 for Majority) |  |

Proposit: Reduce the Size of Congressional Staff and/or Funding

**CONGRESSIONAL STAFFING:****1. Reduce the Size of Congressional Staff and/or Funding**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Cobb, Tyrus - Business Executives For National Security	6/29, 614	
	Frenzel, Bill - Former Representative	1/28, 12, 13	
	Mann, Thomas - Brookings Institution	2/16, 133-134	
	Omstein, Norman - American Enterprise Institute	2/16, 133-134	
	Perot, H. Ross - Private Citizen	3/2, 11, 34	
	Representative Allard	1/26, 23	
	Representative Dreier	2/2, 55	
	Representative Emerson	5/25, 116	
	Representative Goss	2/4, 146	
	Representative Huffington	2/4, 241	
	Representative Kasich	3/25, 15-16	
	Representative Klug	2/4, 58	
	Representative Rostenkowski	4/22, 98-9	
	Representative Taylor	2/4, 61-62	
	Schatz, Tom - Citizens Against Government Waste	6/29, 89, 492	
	Senator Boren	2/2, 54	
	Senator Brown	2/2, 54	
	Senator Dole	1/26, 55	
	Senator Kempthorne	6/29, 597	
See Note	Senator Reid	2/16, 43-44; 1/26, 92-96	Notes that since 1981, Congress has added only 18 staff members (2/16, 43-44); cautions against ill-considered staff cuts (1/26, 92-96)

Proposal: Reform the Current Committee Staff System

## CONGRESSIONAL STAFFING:

### 2. Reform the Current Committee Staff System

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Brademas, John - Former Majority Whip, House of Representatives	6/22, 41	
For	Davidson, Roger - University of Maryland	4/20, 59	
	Derwinski, Edward - Former Secretary, Department of Veterans' Affairs	6/22, 18	Only if executive branch staff is cut
	Frenzel, Bill - Former Representative	1/28, 12-13	
	Mann, Thomas - Brookings Institution	2/16, 31	
	Mason, David - Heritage Foundation	2/16, 167	
	Representative Dreier	2/2, 55	
	Representative Hastert	2/4, 239-240	
	Representative Mazzoli	2/4, 162	
	Representative McCurdy	2/4, 138-139	
	Representative Miller, George	4/22, 119	
	Representative Quinn	2/4, 187-188	
	Representative Solomon	2/4, 222	
	Senator Boren	2/16, 62-63	
	Senator Mitchell	1/26, 52	
	Volcker, Paul - Former Chairman, Federal Reserve	6/22, 29	
See Note	Representative Crapo	2/4, 200	Give committee staff levels statutory status

Proposal: Reform the Current Committee Staff System

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Representative Dingell	4/29, 623	Staff reductions should not be across the board



Proposed: Require a Certain Proportion of Staff to be Non-Partisan

### CONGRESSIONAL STAFFING:

## 3. Require a Certain Proportion of Staff to be Non-Partisan

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Pro	Senator Brown	2/2, 48	

Proposal: Allow Each House Committee's Minority Party Members 1/3 of all Staff (2/3 for Majority)

## CONGRESSIONAL STAFFING:

### 4. Allow Each House Committee's Minority Party Members 1/3 of all Staff (2/3 for Majority)

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Against	Representative Conyers	6/24, 58	
For	Davidson, Roger - University of Maryland	4/20, 58	
	Ornstein, Norman - American Enterprise Institute	4/20, 59	
	Representative Arney	5/13, 1043-1046	
	Representative Bliley	5/13, 1043-1046	
	Representative Buyer	6/16, 33	
	Representative Combest	5/13, 1043-1046	
	Representative Dreier	4/22, 63	
	Representative Dunn	5/6, 747	
	Representative Emerson	5/25, 116	Would like "a reasonable allocation to the minority"
	Representative Fields	5/13, 1043-1046	
	Representative Gilman	5/13, 1043-1046	
	Representative Gingrich	5/13, 1043-1046	
	Representative Goodling	5/13, 1043-1046	
	Representative Hyde	5/13, 1043-1046	
	Representative Kasich	5/13, 1043-1046	
	Representative Leach	4/29, 673	
	Representative Mica	6/16, 10	

Proposal: Allow Each House Committee's Minority Party Members 1/3 of all Staff (2/3 for Majority)

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
	Representative Michel	5/13, 1043-1046	
	Representative Moorhead	5/13, 1043-1046	
	Representative Myers	5/13, 1043-1046	
	Representative Roberts	5/13, 1043-1046	
	Representative Shuster	5/13, 1043-1046	
	Representative Solomon	5/13, 1043-1046	
	Representative Thomas	5/13, 1043-1046	
	Representative Walker	5/13, 1043-1046	
	Representative Young, Don	5/13, 1043-1046	
See Note	Representative Goss	2/4, 145	Would allocate staff to reflect ratios of the entire House

Proposal: Reform the Current Detailee Process

## CONGRESSIONAL STAFFING:

### 5. Reform the Current Detailee Process

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Mann, Thomas - Brookings Institution	2/16, 136	Restrict GAO detailees to investigations approved by chairmen and ranking members
	Ornstein, Norman - American Enterprise Institute	2/16, 136	Restrict GAO detailees to investigations approved by chairmen and ranking members
	Senator Dole	1/26, 55	No federal agency detailees
See Note	DiMario, Michael - Acting Public Printer, Government Printing Office	6/10, 13	There is a pending bill that would change detailee costs from GPO to committees

Proposal: Reform Support Agencies

**CONGRESSIONAL STAFFING:  
6. Reform Support Agencies**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Frenzel, Bill - Former Representative	1/28, 13-14	Would abolish OTA, reduce CRS, and questions the efficacy of GAO
	Representative Taylor	2/4, 62	Would eliminate CBO and restructure GAO
	Senator Bond	2/2, 38	Would like an audit of GAO



Proposal: Miscellaneous Comments

**CONGRESSIONAL STAFFING:  
7. Miscellaneous Comments**

NAME OF WITNESS	MISCELLANEOUS COMMENTS
Marsh, John - Former Representative & Secretary of the Army	Would set guidelines and define roles for staff, 6/22, p. 130
Senator Brown	Supports joint staff on committees which are roughly parallel, 2/2, pp. 53-54

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## ISSUE AREA 11: ADMINISTRATION OF THE HILL

### List of Options Proposed

1. Coordinate Management of Non-Legislative Services in the House and Senate
2. Reform the Legislative Service Organizations
3. Establish Limits on the Use of Support Agencies
4. Reduce Duplication of Requests to Support Agencies
5. Establish a Centralized Mechanism for Constituent Services in Each Chamber

Proposal: Coordinate Management of Non-legislative Services in the House and Senate

## ADMINISTRATION OF THE HILL:

### 1. Coordinate Management of Non-legislative Services in the House and Senate

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Representative Allard	1/26, 22	
	Representative Foley	1/26, 22-23	Unable to coordinate all non-legislative functions of House and Senate because of their different traditions
	Representative Rostenkowski	4/22, 93	Would be useful if it would cut expenses
	Senator Lugar	1/26, 58-59	

Proposed: Reform the Legislative Service Organizations

## ADMINISTRATION OF THE HILL:

### 2. Reform the Legislative Service Organizations

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Eliminate	Frenzel, Bill - Former Representative	1/28, 13	
	Representative Dreier	2/4, 25	
	Representative Goss	2/4, 146	
	Representative Rostenkowski	4/22, 89	
Keep	Representative Porter	2/4, 23-24	Clarify LSOs' role & place them under control of House Finance Committee
See Note	Representative Shaw	2/4, 29	LSOs' should be subject to public audits

Proposal: Establish Limits on the Use of Support Agencies

**ADMINISTRATION OF THE HILL:****3. Establish Limits on the Use of Support Agencies**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Mann, Thomas - Brookings Institution	2/16, 138	
	Ornstein, Norman - American Enterprise Institute	2/16, 32, 138	
	Representative Dreier	6/10, 27	
	Senator Boren	5/11, 372	
	Senator Reid	6/10, 15	



Proposal: Reduce Duplication of Requests to Support Agencies

**ADMINISTRATION OF THE HILL:**  
**4. Reduce Duplication of Functions in the  
Support Agencies**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Representative Dreier	6/10, 27	
	Ross, Joseph - Director, Congressional Research Service	6/10, 3	

Proposal: Establish a Centralized Mechanism for Constituent Services in Each Chamber

**ADMINISTRATION OF THE HILL:**  
**5. Establish a Centralized Mechanism for**  
**Constituent Services in Each Chamber**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Mann, Thomas - Brookings Institution	2/16, 134	
	Mason, David - Heritage Foundation	2/16, 37	
	Ornstein, Norman - American Enterprise Institute	2/16, 134	

## HEARING SUMMARY, JUNE 22, 1993

Five witnesses: Edward Derwinski, John Marsh, Richard Thornburgh, Paul Volcker, and John Brademas.

Panel Presentation by Edward Derwinski and John MarshEdward Derwinski, former Secretary of Veterans' Affairs and former Representative

Stated that the legislative oversight process is the most effective weapon that the Congress has to work with the Executive Branch. It has been my judgement that is the one which Congress underutilizes or mishandles. As Secretary of Veterans' Affairs, for example, I found oversight sessions were interested only in addressing a scandal after the story had broke. Congress was not interested in sitting down with us in advance, to work on procedure or work out legislation that might correct weakness in the system.

The second problem that was very clear was the parochial pressure, legitimate parochial pressure, that Members of Congress exercised. There is a thin line between legitimate parochialism and overkill when it comes to management procedures.

Authorizing committees ought to be redefined in such a way that they function almost exclusively as legislative oversight panels. Oversight should not be conducted only after the fact, after some individual episode has been revealed as mishandled, but rather in a constructive, positive way, working with the Executive Branch. I also believe that the Congress could play a much more effective role if legislative oversight, rather than dollars, were the first concern of Members of Congress.

I find a major gap between the legislative process, the authorizing process, the appropriations process; much, much later and usually much too late is the legislative oversight.

I would also recommend to limit the number of Members on committees. There are too many committees which are much too large.

There ought to be some way to devise a select congressional panel to look at the long term responsibilities and challenges that face the government, not just the annual appropriations and not just the immediate crises and problems. Such committee would need to isolate itself and take a look at the long-term interest.

John Marsh, former Secretary of the Army and former Representative

Remarked that one of the greatest things we have lost in recent years is comity, that courtesy that exists between the branches. Anything this Committee can do to

restore that relationship, courtesy between the branches, would be a lubricant to make the wheels of the government turn more smoothly.

Congress is the cornerstone of our government. Despite the changes that have occurred in the United States and throughout the world, Congress has not made any effective changes since 1946. It is important to remember that we created an executive form of government and not a parliamentary form. I believe that Members will be more involved in the development, planning, and execution of national policy.

The Executive Branch proposes and Congress disposes. The Executive Branch acts and Congress reacts. There has been a cyclical relationship between the two branches. There are periods of assertion of legislative authority, and then the pendulum swings away.

I would point out to the Committee that of all my federal assignments, my service in the House of Representatives was the cornerstone. It was most essential and the greatest help in various assignments later in the Executive Branch. Also, because of my executive service, I believe I could be a more effective Member of Congress now than when I previously served.

Today, there is much discussion about the power, authority, and prestige of the Congress. Since the Watergate/Vietnam experience there has been a rapid ascendancy of congressional authority. Your panel is really dealing with the question of power. We have a system that is based on the diffusion of power, safeguarded by checks and balances, and the inherent authority of one branch to negate or checkmate the actions of another branch.

I am aware that much of gridlock that we are experiencing in our government is a gridlock to which Congress is a major contributor. Legislative gridlock occurs because of differences within and between the two houses; differences on issues between authorization and appropriations; and differences over jurisdictional interests as to subject matter in both the House and the Senate. At times there are differences that arise because partisan considerations further exacerbate the situation, but partnership is not the sole factor, or invariably the primary one.

Once being a legislator becomes a full-time job, it introduces other considerations. An individual becomes dependent upon reelection in order to keep the job. If the legislator is not independent of wealth, there is a built-in insecurity. With the expense of modern day elections, significant amounts of time and effort must be expended by the Member for reelection, including for raising funds.

Because of the vast number of legislative proposals and the interest of the media in headline summaries and media-bite and sound-bite presentations, there is a growing trend towards adopting legislation more by its title than with adequate consideration of its substance. Many examples of legislating by label can be cited, and this approach often times produces legislation that is hastily conceived. Its full impact is not appreciated by the total Congress inasmuch as Members are subject

matter specialists and are not fully aware and do not fully understand the complexities of important issues outside their area of expertise.

With the growth and complexity of the legislative program, the increase in population, and greater constituent duties, the expansion in number and power of staffs was inevitable. However, accessibility to Members, not only by constituents but by key people in the Executive Branch, is essential.

I would recommend to the Committee that one of the areas to consider would be staff roles and functions. I would further suggest that Congress establish an ad hoc committee on congressional staffing. This would be composed of carefully selected staff members who have distinguished themselves for their public service and who have carried out their duties in an exemplary fashion. I believe that such committee should establish certain guidelines and policies that relate to the conduct of staff members and their proper role and function. I would also suggest that annually there be a program of congressional recognition of outstanding staff members who, by their public service and pursuit of excellence, set an example for other staffers to emulate.

I would suggest to the Committee that your tasks include conducting two audits. The first audit would be an inventory of all committees and subcommittees. As a part of this survey jurisdictions should be set forth, including over which executive branch departments or agencies each panel exercises oversight or has a legislative relationship with. Such an inventory would also indicate where there has been overlap with another committee and duplication of hearings.

The second audit would follow-up on specific legislation adopted within the last two decades with impact on the Executive Branch, and the manner in which the Executive Branch carries out its duties. It would first establish an agreed upon group of statutes. The Executive Branch then would be tasked to respond to Congress as to the application of these statutes, their effectiveness, and what modifications, if any, the departments and agencies would make to contribute to efficiency in government. Candidate legislation could include the Budget and Impoundment Control Act, legislation relating to the acquisition of computers, the War Powers Act, the Freedom of Information Act, the Inspector General's statutes, and competition in contracting laws. There may be others as well.

I believe the Congress should consider a strategic plan for the nation. Such a plan would be near-term, mid-term, and long-term. Near-term would be 5-10 years, mid-term would be 10-20 years, and long-term would be 20-50 years. The national plan would be composed of four major areas:

- 1) National security and foreign affairs;
- 2) Social services, which would include education, health, social security, and welfare;
- 3) Environment; and
- 4) Financial, i.e., budget, revenues, fiscal and monetary matters.



I made a reference to legislative gridlock but gridlock is not exclusive to the Legislative Branch. It exists in the Executive Branch and I believe this Committee should address it. I invite your consideration of how staffing occurs inter-departmentally in the Executive Branch. It can be a bureaucratic nightmare trying to establish a consensus on legislative proposals sponsored by a department of government.

The Committee is well aware of how proposed bills move through the legislative process. I suggest that you examine how proposed legislation moves through the Executive Branch. It is a cumbersome, difficult process. It is directed by the OMB, which is charged with the responsibility of getting sign-offs on proposed legislation before it goes to the Hill. This is an extraordinarily difficult process and frequently other departments and agencies can frustrate and block necessary legislation.

I cannot emphasize how important I feel it is that you examine the Executive staffing process. I suggest you also look at the linkages between staffs of executive agencies and committees when proposed legislation is at issue. To make this point, I invite you to review the numerous reform efforts and studies that have been initiated in the Executive Branch to try to remedy the process in the procurement field alone. Notwithstanding enormous work and effort, the Executive Branch has fallen short of the intended goal inasmuch as it could not develop a consensus to pursue on Capitol Hill.

#### Questions and Answers

**Lugar:** Mr. Marsh, you sketched an idea that the President could add or subtract from an overall plan, a template that a new long-range planning committee could initiate in the Congress as an illustration of how policy can be developed. Is it realistic to think that Congress can anticipate what is going to happen, say, in foreign affairs or in the domestic scene for an immediate or long-range period, and that a President would be prepared to follow this? Is it realistic for Congress to be engaged in that degree of specific planning, and to believe that executives would simply tailor the template?

**Marsh:** What I would envision would be a more broad statement of goals that Congress would determine to be the national goals to address our national needs, both in the domestic and foreign scene. I believe that the Congress can harness the enormous talents and energies of its 535 Members to give us a very broad template of where the country needs to go.

I think the Congress should involve very deeply the resources of the Executive Branch, including senior officials such as cabinet officers and individuals below the cabinet level.

**Lugar:** You had mentioned party platforms. What if the goals of a particular Congress dominated by a particular party were sharply at variance with goals that might have been adopted by the opposition party? For example, from time to time

parties have stood on various domestic issues poles apart, and the long-range plan called for the ideas of one party but the country rejected it. So essentially you are back to square one in terms of goals.

Marsh: I think that one of our problems is that because of the enormous impact of change, we have not developed the new ways and the new means to address a number of these issues. We will need to experiment. One of the things I am convinced we are going to have to do is have a greater discussion and dialogue between the Congress and the Executive Branch. I believe that many people come to the Congress with a lot of ideas about things they want to do, but they become so absorbed in the day-to-day routines of the office that longer range things are often overlooked and forfeited to the Executive Branch. I am opposed to a four-year term for House Members because I think there is a very valid purpose served by having a two-year election mid-term in the President's administration. This election is an expression of whether or not the people agree with the President's direction.

Kassebaum: There has really been a growing problem in the regulatory process and that I assume is what you are talking about as being part of the executive gridlock. We fashion a bill that is fairly broad in scope, and then the different agencies responsible for it put together the regulations; that may take a couple of years. Then to really know exactly what has been done, I think it goes back to oversight, which we don't do a very good job of. Is this what you are addressing, Mr. Marsh?

Derwinski: Mr. Marsh has made a reference to "rolling a rock back up the hill" at the Pentagon. It is an issue that we just touched upon briefly, the third and unseen force: the career people in the Executive Branch who operate regardless of who the President is, and who really have no interest in the presidential view. The career people are well aware that they will be there even after the President is gone, and I think this is one of the major problems. This would be where help from Congress to the Executive would be in order, to help us run the departments of government rather than come in as Congress generally does after the fact and second guess some isolated case or scandal or instance of mismanagement.

Kassebaum: One example of gridlock is child care legislation which I think was passed two years ago and some of those regulations have not been drawn up for implementation. They are still in the works.

Cohen: One of the problems that we are trying to come to grips with is demoscclerosis, which is in this democracy of ours. Everything has created an interest group, and every piece of legislation has its defenses. There is not only no way to terminate programs, but there is no way to modify them in a substantive way. It reflects a loss of power. Everyone is in check, but no one is in charge. Everyone is in check of each other, but no one has the power to rule very much.

One the suggestions you recommended deals with the Base Closure Commission model. It seems to me that this reflects a failure of democracy. We are unable to solve our own problem, so we have a commission solve it for us. It reflects a failure

of the system when we have to turn to an extra-legislative solution in order to be able to go back to constituents and say: Look, the "devil" or the commission made us do it. We are moving away from this responsibility we are supposed to have. We also, at times, avoid dealing with existing problems. I am not sure exactly whether these solutions that you offered are the correct ones, but it seems to me they reflect a breakdown in the system or a reflection or reaction to the loss of power.

Marsh: In response to that Mr. Derwinski referred to the base closure methodology also as a possibility in veterans' affairs. I am sure you realize the reason is that you go to the all or nothing approach. If we go after a single base, one Member would be able to form coalitions and alliances for one person, for one base.

Cohen: Would you make that argument regarding budget and campaign finance legislation as well?

Marsh: I do not know that I would do that on the budget. What you do in the base closure situation is everybody sees a common good by doing something, but it is a very tough bullet for the impacted individual to bite. So the rest of Congress bites it for him.

Cohen: It seems to me rather than giving the power over to a congressional committee, we are prepared to give it to a commission. That seems to be a major change in the democratic system. I would far prefer to go back to the committee system.

Marsh: The reason the government or Congress has become so responsive is because it has become a full-time job. And because it is a full-time job, you invite people to call on you and to do things for you. If it were a part-time job, I think some of that would go away.

Derwinski: I would only say that I focus on the Base Closing Commission process because I think it has been effective, and it is a testimony to the influence of Senators and Congressmen, not to any weakness. The Base Closing Commission permits the entire procedure to be elevated to the national picture.

Allard: Both of you have served in the executive area and in some sensitive intelligence areas. How did you view some of the rules and regulations that might have been promulgated by another agency that would have had an impact on your agency, and how was that handled? I am interested in comments that you might have on how we address this problem in the balance of power.

Derwinski: What you are really referring to is the tendency over many, many years for Congress to exclude itself from many provisions of the law.

Allard: Since 1935.



Derwinski: I think you can probably justify much of it. The trouble is collectively it became something that the pendulum has swung against.

If you look at the resources of the Executive Branch, compared to the resources of Congress, I would say that the bloated size of the congressional staffs borders on a national disgrace. I believe in streamlining the bureaucracy.

Allard: When I served in the State legislature, we frequently established accountability by knowing not only the dollar amount that was appropriated to an agency, for an entire department, but we also knew how many employees we were talking about and calling full-time employees. I would like to hear comments from both of you on how you think applying that standard would help accountability.

Marsh: There are caps on the number of employees in the Department of the Army and the Department of the Defense. For example, there is the number of civilian employees established by law and it is capped, as is the strength of the armed forces. It is established by law.

Derwinski: The problem with any cap is that it clearly takes away effective management decisions. A cap is an arbitrary and artificial restraint. I would say that if Congress wanted to impose budget discipline, that a dollar cap rather than a full-time employee cap, would be a more practical way to approach it.

Allard: Both of you have served in the House and now on the agency side. I wonder if you have any comments on the congressional reform that we had in the early 1970's, how that has evolved and what you see happening in the House. Have some of those reforms been beneficial or would we have been better off without that reform movement?

Derwinski: I think you are referring to the reform movement that came after the Watergate election. That was a political backlash at the time. We had a huge freshman class, just as the one you have now. You know, the very large freshman class gathered momentum, a life, goals of its own. Politically, there was a partisan adjustment, and an attack on the old warlords of Congress. It was overkill. People had it up to here with the whole Watergate episode, and they made a correction.

Boren: Would it be healthy if we had fewer committees so that Members' time is concentrated; there is less overlap of subcommittees; and we attempt to identify the committee or subcommittee with principal jurisdiction and oversight over a particular executive branch agency, so there is not so many committees looking over the shoulder of the same agency?

The biennial budget is something else that has been proposed. There has been a proposal from some of our Members that we should budget on a biennial basis. That would leave more time for consultation and appropriate oversight between the relevant committees.

Derwinski: I think if you limited the number of committees and subcommittees that the Members served on, in principle, they presumably would be forced to be more precise and do more homework in a given field. But that runs against their natural interest, to cover every possible base that helps them serve their constituencies.

I would suggest that during the first two or three months, when there is very little action here, you truly concentrate committee hearings without interference from sessions on the floor, and each party could see to it that its Members are there and ask the necessary questions. That would also get to the point without making advanced consultation. I think if you blocked out precise times early in the year there would be no reason why we couldn't have maximum cooperation.

Marsh: I think that it is absolutely essential that more of that be done. One, I think that the number of committees needs to be reduced and I think the number of subcommittees needs to be reduced. I think that over the past ten years "think tanks" have been very effective. The hearing process is becoming essential. It is also becoming confrontational and adversarial.

Panel Presentation by Richard Thornburgh, Paul Volcker, and John Brademas

Richard Thornburgh, former Attorney General and former Governor

Observed that our failure to create some effective vehicle for resolution only guarantees that future misunderstandings, to the ultimate detriment of the public good, will be inevitable. How many more interbranch conflicts will be necessary before we takes steps to fashion a process that leads to reasoned, rational results?

Now, I believe, is the best time to move forward. Without a specific statute, or remedy, I fear the confrontational tactics of the past will continue. Moreover, the absence of a specific statute will enable courts to continue to dodge what they sometimes view as a political debate between two branches. The availability of a judicial forum in which to obtain an immediate review of the competing interests of each branch of government might well contribute positively to a more deliberate, reasoned resolution of disputes. This will enable cooler heads to prevail and reduce the historically confrontational tone of the political rhetoric expended in such disputes. Only with the adoption of such a statute will the political gamesmanship be removed from what essentially is a tug of war between competing constitutional constituencies.

I urge the Committee to seriously consider this proposal. As much as any other single factor you might review during the course of your deliberations, a recommendation from this body that a statute be adopted could pave the way for the establishment of constitutional parameters governing interbranch disputes over access to information and documents. More important, perhaps, it could go a long way toward reducing the prospect for this very damaging form of gridlock. In so



doing, it would also constitute a small step toward civilizing political debate in this arena and perhaps abating, just a little bit, the sense afoot in America that those in Washington care more about short-term political victories than about the important business of governing.

Paul Volcker, former Chairman, Federal Reserve System

You see it in a tendency from the standpoint of the executive or the standpoint of the Federal Reserve, a tendency to overregulate on the sense of giving very detailed instructions about what to do. There is a tendency towards a kind of micromanagement. There is also a lack of consistent oversight, which is regrettable, because I don't think the bureaucracy should be exempt from what I think of as intelligent oversight.

I must say that it is quite frustrating for somebody dealing with the Congress to have to face sometimes, as we did in highly repetitive testimony in the case of the Federal Reserve, perhaps a dozen different committees in the space of a week or two. The question is what kind of remedies could arise. And I join in those and can very easily say from the other side of the table, the committees tend to be too big, particularly in the House, to be really effective. I had a great sympathy for particularly the junior Members of those committees that have a very difficult time in hearings lasting long enough to ask five minutes of questions, and to sustain interest. The smaller the committees, the more effective they tend to be. Also, there are too many overlapping committees.

When I look at it from the other side and try to look at your problems, I do think that there is a tendency towards a kind of self-protective instinct. In this environment, one does not want to reveal one sentence more than they have to reveal, and does not reveal anything unless asked precisely the right question. What are the proper areas for confidentiality? We have had recurrent problems in defining the borderline between privacy of investigations and the proper boundaries of legitimate inquiries.

John Brademas, former Representative

Basic to an appreciation of Legislative-Executive relations, indeed, of the American form of government, are certain fundamental factors. First, we have a separation of powers Constitution. Second, our political parties are decentralized. Third, over the last twenty years, there have been significant changes in the operation of Congress that, in an already fragmented system, have further dispersed power.

It is imperative here to remember that Presidents, Senators, and Representatives are elected by different constituencies, for differing terms, and with different constitutional responsibilities. In our system, as distinguished from a parliamentary one, the chief executive is not chosen from the legislative majority and often does not even belong to the majority party in Congress. Witness the years of Reagan and Bush. The American way for governing was not designed for peaceful coexistence

between the Executive and Legislative Branches even when both are controlled by the same party.

Beyond the Constitutional arrangement of what Richard Neustadt has called "separated institutions sharing powers," is another factor that greatly affects the relationship between the two ends of Pennsylvania Avenue. We do not have highly disciplined political parties. Our traditional major parties in the United States have made possible durable coalitions as disparate but broadly compatible interests. The umbrella of national party affiliation has helped build consensus within as well as across party lines, a crucial role in making government work in a big country like ours with many differences of region, race, ethnic origin, and economic interest. But for various reasons, the ties of the party have been weakened over the last generation. The decline of political patronage, with the rise of the civil service, is one explanation.

To these decentralizing, fragmenting forces must be added changes over the last two decades in the operations of Congress itself, especially in the House of Representatives. I was part of those changes, aimed chiefly at curbing the power of the autocratic chairmen, opening up the system to effective participation by more Members, opening up the system to effective participation by more Members, and making the House more democratic and accountable. These reforms, however, have not necessarily made the House of Representatives easier to lead or majorities easier to forge. So dealing with the House -- I do not even speak of the Senate -- is often just as difficult for a Speaker as it is for a President.

Here let me note that Congress has been affected not only by the kinds of reforms I have cited but also by steps Congress has taken to strengthen its capacity to carry out its functions as policy-maker and overseer of the Executive in carrying out the laws. Most significant in this regard is the establishment of a congressional process for producing a Federal budget. Next year marks the 20th anniversary of the passage of legislation that created Budget Committees in the House and Senate and a Congressional Budget Office.

At this point, I want simply to list certain reforms that I believe would significantly improve the capacity of Congress to play its deliberative as well as representative role in our political system.

First, a four-year term for Members of the House of Representatives would enable them, without such unrelenting pressure to campaign and raise money, to focus on more long range policy. To preserve the advantage of a biennial referendum, stagger the terms, with half of the seats up ever two years.

Next, reform the campaign finance laws. As a co-author of the 1974 statute that provides for financing of presidential campaigns, I have long favored public financing of House and Senate races, not solely as a way to impose limits, but, still more important, to reduce the excessive influence of PAC and other special interest money on public policy making.

I also favor encouraging contributions to political parties as a way of strengthening their place in developing policy proposals, fashioning consensus for them, and encouraging greater citizen participation in politics.

The state of Legislative-Executive relations varies with the time period, the policy area, and above all, the configuration of political forces. Foreign policy is the life and death arena for a President and Congress, and without a sense of trust between the two branches, we imperil the vital interests, indeed, the security, of our nation. A President who wants to be successful in the conduct of foreign affairs must be able to work honorably and straightforwardly with Congress. If he deceives or lies, ultimately, he and the nation will fall.

As I conclude, I return to the general question of how to improve cooperation between the two branches and overcome friction. It must be obvious from what I have said that I do not favor eliminating friction and disagreement, not only an impossible goal but an unwise one.

Certainly there are institutional, structural changes that can increase the likelihood that both the President and Congress can more effectively deal with the nation's problems. But in the final analysis, the answer to that question will depend on the quality of leaders the American people choose and thus on the judgement, good or bad, of the American people.

### Questions and Answers

Boren: In terms of problems that sometimes exist between the Department of Justice and the Congress, there were two or three occasions when I was chairing the Intelligence Committee when we were looking into things and we were told that answers would be forthcoming after certain periods of investigation had been completed, but couldn't be given at that time. I guess you are suggesting that either we go to an appropriate third party, an arbitrator or someone in whom both sides would have confidence, or perhaps to a court for declaratory judgement, as to whether or not the Executive Branch agency is appropriately withholding the information at this stage of the proceedings as opposed to doing so perhaps for the purpose of covering up some legitimate line of congressional inquiry.

Thornburgh: What I am concerned about is that there must be a better way than the kind of food fights that occasionally occur between committee chairs and members of the Executive Branch over the availability of documents or the accessibility of witnesses. It was simply a matter of sitting down with the Member who was seeking the information and explaining, without dealing with specifics of the case, precisely what our objection was that would in fact jeopardize either the reputation or the safety of a witness or slow up or detour an investigation, and that was it.

Boren: You say that bits and pieces of information come to you, and you don't know whether they are really comprehensive or not, or whether they are giving you a distorted partial picture or a total picture. I think it would be very valuable for



us, either through a declaratory judgement proceeding or a panel of arbitrators or some other kind of informal dispute resolution process, to look at that.

Thornburgh: I think your mention of the Intelligence Committees is an apt one, because there a better way was devised. In my experience that was a useful way of dealing with some of the sensitive relationships we had in the Department of Justice.

Boren: Did you have much experience dealing with the Judiciary Committee?

Thornburgh: Occasionally in the higher profile, more controversial areas, we would have to deal with committees other than the Judiciary Committee. The strength of the Judiciary Committee insofar as the Justice Department is concerned is that we deal on a day-to-day basis, and I use that as a contrast with some of our forays into other areas where communication did break down and we had some kind of outlandish confrontations.

Boren: This question deals with fragmentation. Chairman Volcker, you just talked about the lack of priorities. You also commented on micromanagement versus legitimate oversight. There has been talk of fragmentation of Members of Congress. They are being pulled in so many different directions. We used to have rules restricting the number of subcommittees you could serve on. We have one Senator who serves on up to 22 committees and subcommittees; the average is twelve. When I was on the Intelligence Committee we did not have subcommittees and we knew that so many hours a week would be directed solely to matters that were of most importance.

Too many panels also leads to the unnecessary duplication of hearings, of concern to the Executive Branch. There are more committees and they are looking over less and less, and they are fully staffed. We become so fragmented that we do not have time for the important things. I wonder if you think we would be better off by imposing stricter rules on the number of committees and subcommittees our Members can serve on, trying to restrict them to a couple of committees and two or three subcommittees.

Volcker: It seems to me the thrust of what you are saying is very much in line with my own instincts. It is probably a lot easier for both of us to say than to do. I think there is something to be said for the continuity of the relationship. It is not just a question of size and number of meetings and all the rest, but I've always been worried in terms of the people arguing for term limitations that the Congress itself will lose a certain expertise among the Members. A freshman Member may be full of new ideas and energy but does not have the same background. You need a mixture.

Brademas: I agree with what Paul Volcker just said about the adverse impact of term limits on the development of expert knowledge on the part of Members of Congress. Another reason for opposing it is that it would represent a great shift of power away from Congress, from elected Members of the House and Senate to Hill

staff, and to the Executive Branch of government, and to career civil servants and politically appointed people.

I agree that there are too many subcommittees and that membership should be restricted in terms of both committees and subcommittees. I am strongly of the view that Congress should be much more vigorous and aggressive in carrying out its oversight responsibilities. I endorse your suggestion that we need to move more towards priority setting.

Boren: How would you feel about biennial budgets in which those in favor have argued that you appropriate in one year and you oversee in the next?

Brademas: I haven't decided and we are debating that in the Carnegie Commission right now. Conceptually, I am attracted to it.

Volcker: On that question, I find myself conceptually attracted to it. But I knew I would find something to disagree about rather strongly with my friend John Brademas. I think the kind of approach he is suggesting that Congress ought to spend a lot of time trying to get together and establish broad priorities for work over a period of years on the policy side is wrong. That should be the strength of the executive. I have this kind of ideal vision in my mind that the system as a whole works best when the principal load is on the administration, to present a hopefully reasonably coherent program over a period of years, recognizing the different interrelationships, and Congress is there to pick holes in it.

Sarbanes: Could I just observe that historically speaking in this country, through much of our history, the moving party on policy was the Congress and not the President.

Dreier: What do we do as an alternative? We have before this Committee fourteen different proposed recommendations for jurisdictional realignment that have come from the Congressional Research Service of the Library of Congress, which have outlined ways in which we might make changes. I would like to have you provide us with your thoughts on some of the proposals that we have had.

I have been making this case time and time again throughout this Committee's deliberations. Your last term here, eighty-five percent of the rules under which we considered legislation were open, and fifteen percent were restricted, limiting in some form the opportunity for Members to offer amendments to legislation. I wonder if you would care to comment on that tremendous change that has taken place.

Brademas: It is easy to attack the Speaker and the leadership of Congress for not getting the job done. One way to get the job done in terms of moving ahead on legislation is not to allow so many open rules, which contribute to the already existing barriers in our kind of system to the passage of legislation.



Dreier: One of the problems that we have had this year is we have been looking desperately for legislation. We have had a tremendous lull, and even when we have had literally nothing to do during the week, we still have had a restricted rule.

Brademas: In that respect, that has nothing to do with it.

Dreier: If you are talking about moving legislation through, it is not as if there is something that is delaying the time around which you can consider legislation.

Brademas: The gentleman wholly misstates my argument. It is not a matter of your having nothing to do, it is a matter of whether or not you want to be effective in forging a majority to pass legislation.

Dreier: Under your leadership, why did you have so many open rules?

Brademas: I wasn't forging the rules at that time. The Speaker was putting together the rules. And the fact that you cite the number of open rules is really not at all that persuasive to me, unless we make a case by case analysis of the legislative bills to which those rules applied.

Sarbanes: I wanted to point out that in those days the Ways and Means Committee reported bills, particularly on tax measures, invariably came out under a closed rule. You don't apply the closed rule unless the majority votes to do so. They can overturn it.

Boren: I think this is an area in which both bodies can learn something from each other, because obviously we are at the two extremes in the way we are functioning now.

Sarbanes: I think one of the things that happened in the Congress in both the House and Senate is more and more amendments being offered not essentially to craft the legislation that is before you, but simply to make a political statement. These are the amendments that are being offered simply to put people on the record on what is the current hot button political issue.

Boren: I think you are absolutely right. It is really material for a thirty second spot. Really there is an enormous amount of time now being wasted through this kind of procedure as opposed to really legislating and getting down to business.

## HEARING SUMMARY, JUNE 24, 1993

**Four Witnesses: Representative John Conyers, Senator John Glenn, Senator Bill Cohen and Senator Carl Levin.**

Chairman Hamilton opened the hearing stating that it was a continuation of a series of hearings on the relationship between the Legislative and Executive branches. Today's hearing will focus on congressional oversight of the Executive Branch's agencies and programs, and all of the witnesses are House and Senate leaders in such oversight. Oversight is of critical importance because it assures that laws are carried out as Congress intended. Many feel, however, that there are few incentives to do oversight.

Representative John Conyers

We have a frustrated citizenry who is waiting to see if we can make changes in our institution. The Government Operations Committee is in a position to conduct oversight of the Executive Branch and deal with problems of inefficiency, duplication and waste. This is a tremendous opportunity since Congress has authority over diverse executive agencies.

For most committees, even though they have oversight authority, the reality is that this is their least attended to responsibility. The reason for this is an anomaly. Congress is always moving to a new issue so it is hard to look back. The Government Operations Committee is important because it is the one committee whose main function is to look back and review. Our job is an enormous one. Government Operations has, by definition of GAO, saved ten billion dollars through its oversight. We are saving millions, while at the same time we have not been given a budget increase over the last two Congresses.

There are volumes of problems that we are continually checking in order to gain insight on what still needs to be done. Government Operations is a champion in fighting government waste, but do not give us any more jurisdiction.

Serious consideration should be given to a two year budgeting process. The one year process is a roller coaster. We should also stop loading committees with Members. To have 55 Members on one major committee is to tie its hands behind its back. We should also look at some rules in the Senate that differ from those in the House. Allowing one Member to stop the entire legislative process through a filibuster is wrong. Germaness is not required in the Senate and that causes mischief. Finally, although legislating on appropriations bills is precluded in the House, there is no such limitation in the Senate and this also causes difficulty.

### Questions and Answers

Dreier: Your testimony has been very helpful. One of the issues that we are continually dealing with is that of committee structure. Where do we go to restructure? Parallelism between the houses? Should we reduce the number of committees and subcommittees? If we do not restructure from the ground up, should we fold committees into one another? In your written testimony, you are against folding other committees into Government Operations. Can you share your thoughts on this?

Conyers: The Senate has combined the Post Office and Civil Service Committee and the Committee on the District of Columbia into their Government Affairs Committee, so there is always the question of whether the House should do the same. These two areas are given more scrutiny in the House than in the Senate. The District of Columbia, a defacto state, is too important to be thrown into a subcommittee. To fold these Committees into another one and destroy the ability to conduct oversight is wrong.

Is there some rationale behind keeping the Appropriations and authorization Committees separate? A major refiguring of committees can be accomplished by combining these functions.

Allard: Under the rules of the House, Government Operations is to relay its findings in oversight to the committee with the appropriate jurisdiction. How is this function performed?

Conyers: Through direct communication with the committee chairs.

Allard: What is your assessment of the effectiveness of this communication? Are the chairs listening to your recommendations?

Conyers: Sometimes there is no cooperation, but other times there is excellent cooperation.

Allard: What is the follow-up to a lack of communication?

Conyers: There is a documented trail of oversight so we can pick up where we left off. We are more busy now with a Democratic administration than we were with a Republican administration. We are bringing problems to their attention. Our Committee sued the Advisory Committee on Health Care to get compliance with the Freedom of Information Act.

Allard: The 1974 reform mandated that your Committee file a yearly report containing oversight plans. Has this been done?

Conyers: This has been done for this year and for every year that I have been chair.

Allard: Is there any cooperation with the Senate? Do you coordinate responsibility?

Conyers: There is a close relationship between the oversight committees. We advise each other and testify for each other.

Allard: Can this be a joint committee?

Conyers: I have never heard that idea before. Coordinating meetings may be difficult. I think that it is highly unlikely that we could function as a joint committee.

Dunn: I have noticed that on many committees, staffing is disproportionate. I advocate a 2:1 staffing ratio. On Government Operations, there are 54 majority staff and 4 minority staff. You are doing important review work of the Executive Branch. Should staff and committee membership be equalized, especially in a Democratic Congress with a Democratic Administration?

Conyers: The disproportion is traditional. It has been built into the relationship between the chair and the ranking member. This relationship has been so good that the disproportion has never been an issue. We do not deal with partisan issues. Waste is not a Democratic or Republican issue. No Republican on the Government Operations Committee, particularly the ranking member, has ever been denied staff, resources, travel, permission for hearings, etc.

Dunn: Then you would support equalizing staff?

Conyers: If someone on Government Operations brought up the issue, then it would be considered, but no one has asked.

#### Senator John Glenn

The task of the Joint Committee is long overdue. Many things need to be corrected. The public interest must come before private interests or our own.

The effectiveness of government affects everyone. We need to restructure jurisdictional lines and not just rearrange the deck chairs on the Titanic. Along with streamlining jurisdiction, we should also trim the number of committees and subcommittees.

One way to reorganize is along functional lines. Five or six committees can take in most of the functions of government. These committees could be: Human Resources, Natural Resources, National Defense, Economic Affairs, International Relations, and Rules & Administration. Although we can not reorganize the Executive Branch, it would be good if they also restructured themselves using this same system. The committee system has grown and



expanded so much that in the Senate there is almost a tradition of trying to give each Senator a subcommittee to head. That is just not necessary. Dividing along functional lines would be much better for our work.

The House and Senate have different arrangements for dealing with ethics, but the Senate should have a different system. The Senate, and perhaps the entire Congress, should have an outside panel. Former Members, former members of the Federal Judiciary and members of the public would sit on the panel. The Ethics Committee can not gain the trust of the public. We were not elected to be judge and jury to each other.

We should consider rotating the membership of committees. There is merit to adopting terms for certain committees. Seniority rules are perhaps carried too far in the Senate. To ensure institutional memory, seniority has its place, but it should not be the only criteria used for committee assignments and chair positions. There are many talented Members who should have an opportunity to lead.

The budget-appropriations-authorization process is a quagmire we need to get out of. It involves three repetitions of the same discussions and arguments. There is so much overlap between the processes that we are creating unnecessary work. We need to find a way to combine these functions.

We could do a better job on oversight with a biannual budget process. The off year could then be used for oversight. We need to look at the outcome as well as the input. That should be a requirement for every program. There are 70 million dollars of earmarked funds. There should be a standard for determining who receives this money. We should stop hiding things in the budget.

I am concerned about the qualifications of political appointees. Thirty-one percent of political appointees leave their jobs after 18 months. Half leave after 27 months. The Executive Branch can not be run this way. We should try to get nominees to agree to stay through the administration.

One final recommendation is to look at our rules and regulations and see where they are being abused. We then need to correct those abuses.

#### Senator Bill Cohen

All of us who serve on the Joint Committee are aware that our institution is held in low esteem. Historically, Congress has not enjoyed high regard in the public eyes. In addition, a poll showed that 98% of the public feel that executive agencies spend money carelessly.

Congress has historically had the power of oversight. As the founding fathers said: someone has to be entrusted with power, but no one can be trusted



with power. Bureaucratic growth, however, has been hurting Congress's ability to conduct oversight. An example of this is the Department of Agriculture. In 1932, the department had 22,000 employees, a \$280 million budget and served 6.7 million farmers. In 1993, there are 113,000 employees, a \$66 billion budget and only 2.1 million farmers are served. Time is another enemy of oversight since we seem to lack the time to conduct proper oversight.

Special interest lobbying also hinders oversight. Once a program is created, it can not be taken away or significantly altered. There is always a group pushing for the expansion of a program. A final delay in oversight is caused by the layered appropriations/authorization process. These functions should be combined and an outside panel should look at fraud and waste.

### Senator Carl Levin

I came to Congress determined to conduct oversight of federal programs. Our committee has done that. Some of the issues we have been involved with are: the social security disability fiasco; the DOD supply system; and IRS abuses, which led to a bill of rights for tax payers. We have a small staff, but we save billions.

We are producing a lot of oversight, but we often ignore it. The Senate Banking Committee in its analysis of the HUD scandal said that Congress did not pay attention to reports of problems within HUD. We need to take advantage of oversight. The committee of jurisdiction should be required to hold yearly hearings on the previous year's reports from GAO and the IGs. This would force attention on these reports and recommendations. There should also be a requirement that, as part of the budget process, agencies over which we have jurisdiction must report to us on actions taken or not taken from the recommendations of GAO and the IGs.

In the oversight process, we should find ways to apply the principles of one program to another program. For example, GAO is examining the HUD loan guarantee program to see if any of its provisions can be applied to other programs. We should also look for ways to sunset legislation. It is not practical to sunset every program, so we should use limited sunset. We can identify those programs of most dubious cost value and write in sunset provisions for them.

### Questions and Answers

Allard: Is there any duplication between the Governmental Affairs and Government Operations Committees?

Levin: We make a significant effort not to duplicate each other's work. Having cross agency jurisdiction, however, is valuable.

Hamilton: How do you determine priorities of oversight? Do you use GAO as a guide as to what to look at?

Levin: GAO is one source we use. We look at problems as they develop. We gather evidence from newspapers and other sources.

Cohen: We are spending too much time on legislating and not enough on oversight.

The Joint Committee on the Organization of Congress  
Database of Positional Statements

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## ISSUE AREA 8: LEGISLATIVE-EXECUTIVE BRANCH RELATIONS

### List of Options Proposed

1. Improve Congressional Oversight of Executive Branch
2. Reduce Preoccupation with Details of Program Administration and Service Delivery, which Leads to Micromanagement
3. Avoid Wasting Valuable Resources on Mandatory Periodic Reports
4. Set Measurable Objectives to Determine Agency/Program Effectiveness
5. Better Identify Overriding, Long-Term National Problems and Improve the Capacity of Both Congress and the Executive Branch for Comprehensive and Consultative Policy Development
6. Miscellaneous Comments

Proposed: Improve Congressional Oversight of Executive Branch

**LEGISLATIVE/EXECUTIVE BRANCH RELATIONS:****1. Improve Congressional Oversight of Executive Branch**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Brademas, John - Former Majority Whip, House of Representatives	6/22, 41	
	Derwinski, Edward - Former Secretary, Department of Veterans' Affairs	6/22, 2	
	Jones, Jim - Former Representative	1/28, 9	
	Representative Clinger	5/11, 366-367	
	Representative Conyers	6/24, 34, 227	
	Representative Emerson	5/25, 111	
	Representative Mica	6/16, 12	
	Representative Natcher	3/11, 38	
	Representative Rostenkowski	4/22, 89	
	Representative Solomon	2/4, 221	Would establish oversight agendas set at the beginning of each Congress
	Senator Cohen	6/24, 66	
	Senator Domenici	2/16, 60-61	
	Senator Glenn	6/24, 63	Recommends biennial budgeting in order to leave off-years for oversight
	Senator Levin	6/24, 69, 259	
	Senator Murkowski	4/27, 139	Recommends "audit staff" used by majority and minority for oversight
	Senator Roth	6/24, 273	
See note	Thornburgh, Richard - Former Attorney General	6/22, 27	Concerned with on-going criminal investigations and Congressional oversight

Proposal: Reduce Preoccupation with Details of Program Administration and Service Delivery

## LEGISLATIVE/EXECUTIVE BRANCH RELATIONS:

### 2. Reduce Preoccupation with Details of Program Administration and Service Delivery, which Leads to Micromanagement

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Cobb, Tyrus - Business Executives For National Security	6/29, 612	
	Jones, Jim - Former Representative	1/28, 8	
	Mann, Thomas - Brookings Institution	2/16, 142-143	
	Marsh, John - Former Representative & Secretary of the Army	6/22, 113	
	Ornstein, Norman - American Enterprise Institute	2/16, 142-143	
	Volcker, Paul - Former Chairman, Federal Reserve	6/22, 28	



Proposal: Avoid Wasting Valuable Resources on Mandatory Periodic Reports

**LEGISLATIVE/EXECUTIVE BRANCH RELATIONS:**  
**3. Avoid Wasting Valuable Resources**  
**on Mandatory Periodic Reports**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Cobb, Tyrus - Business Executives For National Security	6/29, 614	

Proposal: Set Measurable Objectives to Determine Agency/Program Effectiveness

**LEGISLATIVE/EXECUTIVE BRANCH RELATIONS:**  
**4. Set Measurable Objectives to Determine**  
**Agency/Program Effectiveness**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Senator Roth	6/24, 273	

Proposal: Better Identify Overriding, Long-Term National Problems ...

**LEGISLATIVE/EXECUTIVE BRANCH RELATIONS:  
5. Better Identify Overriding, Long-Term National  
Problems and Improve the Capacity of Both  
Congress and the Executive Branch for  
Comprehensive and Consultative Policy  
Development**

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
For	Derwinski, Edward - Former Secretary, Department of Veterans' Affairs	6/22, 3	Recommends a congressional panel that would study long-term issues
See note	Marsh, John - Former Representative & Secretary of the Army	6/22, 6	Congress should be more involved in development and planning of policy

Proposal: Miscellaneous Comments

**LEGISLATIVE/EXECUTIVE BRANCH RELATIONS:  
6. Miscellaneous Comments**

NAME OF WITNESS	MISCELLANEOUS COMMENTS
Omstein, Norman - American Enterprise Institute	More clearly communicate congressional intent, 2/16, p. 144
Representative Clinger	Suggests giving control of Government Operations Committee to the party not in the White House, 5/11, p. 368
Representative Michel	Would give minority "Power of Inquiry," 1/26, p. 35
Senator Grassley	Criticizes confirmation hearings as "inconsistent, repetitive, ... destructive of the nominee," 2/2, p. 43

## HEARING SUMMARY, JUNE 29, 1993

Four Witnesses: Robert Kastenmeier, Patricia Wald, Alex Kozinski, and Robert Katzmann

Robert Kastenmeier, Distinguished Fellow, Governance Institute

The relationship between the Legislative and Judicial branches has to deal with a number of important issues. One of these is that legislation that becomes law is often flawed. Nonetheless, the policy that judicial review of the legislative history is unreliable in discovering intent is bad. In 1993, however, the Judiciary is interested in holding communication with Congress rather than holding it in contempt.

Some recommendations for improving relations between the two branches are:

- 1) A review by Congress of returned decisions.
- 2) Special courses on legislative history and its process for new Members of Congress and new Judiciary workers.
- 3) Give legislative offices more review power.
- 4) Have a separate review board.
- 5) Review of massive legislation.
- 6) Oversight.
- 7) See how revision of laws is coming.
- 8) Do not return to long preambles to register intent; do not clutter bills with ideals.
- 9) Having all Members sign committee reports may or may not be good.

Legislation is our friend. How Congress writes legislation affects congressional intent.

Honorable Patricia Wald, US Court of Appeals for the DC Circuit

The use of legislative history by the Judiciary ensures that laws are enforced as Congress intended and keeps the balance of power among the branches. Up to 1980, the court would look at legislative history to see that the plain meaning was what was meant. Then the textualists, lead by Scalia, introduced the idea that unless the text was absurd, legislative history was unimportant because reports and hearings could be influenced by staff or lobbyists.

In 1989, more cases were decided without considering legislative history, but at the same time, that information was being used to find intent. This term, in a survey of 12 cases, only 3 or 4 used no legislative history; about 7 cases did looked at legislative history.

Judges have to use legislative history. With complex statutes, it is not humanly possible to draft text that will have plain meaning understandable in all situations. Judges know how to pick and choose between snippets and relevant



information. Legislators, not judges, pass laws. We should follow Congress' actions, not our own assumptions. Legislative history is the single authoritative record of what Congress has done.

Some suggestions for better organization of legislative history are:

- 1) Legislators should say whether they want something interpreted liberally or conservatively.
- 2) Outline what you want ambiguous words to mean.
- 3) Congress should take heed of when courts want super clear wording.

#### Honorable Alex Kozinski, US Court of Appeals for the Ninth Circuit

The only legitimate use for legislative history is to prop open doors. Whose views are in committee reports? Do the floor speaker's views reflect any but his own? Legislative history only helps to discover what problem was being solved. In recent years, courts have allowed legislative history to be used too much. In the housekeeping amendment, there is controversy over what "exclusive" means. The statute and the legislative history contradict. When this happens, the statutory language should come first because statutes deserve more respect than legislative history. Legislative history should be used to clear up an ambiguity that was created by the legislative history.

The legislative history conflict has caused:

- 1) A split in the circuit court.
- 2) Excessive paperwork to decide conflict.
- 3) A shift of authority away from Congress to the Judiciary.
- 4) Fuzzy readings of statutes.

The most serious problem is that legislators leave statutes vague and put hints in the legislative history as to interpretation. They are trying to achieve acts that can not be achieved through legislation. To be helpful, legislative history should provide descriptive background. It should not provide answers or interpretation. The more Congress leaves interpretation to the courts or to Executive agencies, the more the intent of Congress will be lost and Congress' role in the three branch system will be weakened, weakening government as a whole.

#### Robert Katzmann, President, Governance Institute

Direct communication between Congress and the Courts is short-lived, mostly occurring during court nomination hearings. Congress is concerned with this relationship because the integrity of the legislative-judicial process is at stake. How we look at the problem will depend on views of proper allocation of power. Understanding how Congress functions is necessary for judicial interpretation. We need practical methods to relieve tensions and improve communications.

The legislative process needs to clarify meanings. There should be a focus on the drafting process in order to anticipate problems. There has to be a way to better express meaning. In addition, the Judiciary needs a way to identify problems to Congress. Suggestions for accomplishing these objectives include a legislative checklist and orientation seminars for legislative and judicial staff.

With regard to statutory revision, Congress should draw upon communication with the courts. They should hear testimony from the Judiciary on technical problems in legislation that need to be revised. A communication protocol should also be developed. If we can heighten the understanding between the branches, then we can heighten the quality of the final product.

#### Questions and Answers

Norton: The job of writing legislation falls to the legislative counsel. We do not debate the words from the statutes, we debate points of view from the statutes without reference to the words. What should the role of the legislative counsel be?

Kastenmeier: An independent review, by the legislative counsel, of work would be helpful in ensuring that technical problems would be caught.

Norton: Legislators are disinclined to reading words. The legislative counsel should be aware of possible problems.

Kastenmeier: There should be a standard review.

Norton: Have you ever thought that there were ways Congress could be more clear or do you just go to the legislative history?

Wald: When there is conflicting legislative history on key principles, I often wished that the conference committee might have indicated why the choice was made, where the idea came from. It is not a question of going wholesale to legislative history. In the vast majority of cases, we avoid having the legislative history exempt the statute. Legislative history is mostly used as help for ambiguous statutes.

Allard: One of the reforms that constituents have been calling for is to end the congressional exemption and bring Congress under the rules it passes. The argument against this is separation of powers. Regulations would interfere with Congress' ability to function. If this is true, would the court step in and solve the problem?

Kozinski: You have raised a difficult issue. We can not express a view because this issue may come before the court.

Wald: There have been statutes where Congress has come under regulations and named an enforcer.

Allard: How do we get judicial input without compromising their jobs since they may be involved with the statute later?

Katzmann: Come up with standards on what is and is not appropriate. Have technical questions answered, but do not discuss merits or interpretations of the statute.

Norton: What do you do when legislative history is used to solve ambiguity?

Kozinski: You are talking about a situation when a committee report is used to clarify a statute ambiguity. The meaning of the statute that is passed on the floor is being changed with the use of the committee report. If we endorse the notion that you can use committee reports in this manner, do you retract power from Congress? The more pieces left for the Judiciary and Executive to play with, the less power Congress has. I have seen evidence of judges using legislative history to retract the intent of Congress.

Wald: My experience is that a small minority of cases where legislative history is used brings about a different meaning than the statute. Generally it confirms plain meaning or helps with ambiguity. Using legislative history is putting all the pieces on the table. It is better to have them and decide which are relevant rather than ignore them. You should never ignore any evidence.

Katzmann: If we ignore legislative history, we are increasing judicial power, not decreasing it. If words are ambiguous we should look at legislative history rather than give the court the power of decision. Without legislative history, the courts may have no idea what Congress meant. We should find a way of making it easier to use legislative history.

Kozinski: Who has more power? The judge with one choice, what the statute says, or the judge who carves a second option out of legislative history?

Norton: Where is what Congress wanted?

Kozinski: How do we know if legislative history is what was intended? The statute should be put more in statutory language and less in legislative history.

Norton: Mr. Katzmann, your work has been to lessen the strict separation of powers. Would you clarify how rigid the separation of powers was meant to be and what kind of relaxation we need to solve the problems we have been discussing?

Katzmann: The Constitution did not form separate institutions with power, but separate institutions sharing powers. As the institutions interact and effect each other, we must look at how they relate to each other. With statutes, it makes sense that each branch should try to understand the other's work process. Court decisions, which are on public record, should be transmitted to the corresponding committee to let them see how courts interpret their work.

Norton: Mr. Kastenmeier, as a former Member now working on these issues, are we looking at greater difficulty in signalling what we mean or is it simply inherent in the way the institutions function?

Kastenmeier: There are some new differences. The institutions have grown in workload and numbers. Life is more complex; the issues are more technical. There are fewer people focusing on any one subject. We rely on small groups legislating on certain issues.

Norton: We must recognize that we are voting on concepts, not words.

**SUMMARY OF OPTIONS FOR LEGISLATIVE-JUDICIAL RELATIONS**

**I. IMPROVING COMMUNICATIONS.**

- A. Formal, structured meetings.
- B. Less formal, periodic gatherings.

**II. ADDRESSING THE INSTITUTIONAL INTERESTS OF THE JUDICIARY.**

- A. Provision of adequate judicial resources.
- B. Attention to jurisdictional impact of legislation.

**III. SERVING THE CONGRESSIONAL INTEREST IN JUDICIAL RELATIONS.**

- A. Institutionalizing congressional awareness.
- B. Promoting institutional awareness of judicial requirements.
- C. Judicial interpretation of legislative history.



## OPTIONS FOR IMPROVING LEGISLATIVE-JUDICIAL RELATIONS

Friction between the Legislative and Judiciary Branches is a function of the separation-of-powers/checks-and-balances system that the Framers gave us. For them, efficiency and cooperation were secondary to the resistance by each branch to the overtures and incursions of the other branches. The fact that there will always be conflict does not mean that there cannot be institutionalized and individualized efforts to promote better relations between the branches in many cases. What follows is an effort to conceptualize some of the possible means to this end and to note the benefits and difficulties attendant on them.

### I. IMPROVING COMMUNICATIONS.

Many misunderstandings may be ameliorated or dissipated simply by creating channels of communications in which the participants may grow to understand better the ethos of the legislative or judicial worlds. Although there are matters that legislators and judges may not share and considerations that are off limits to one or the other group, no doubt many issues could be profitably discussed.

#### A. Formal, structured meetings.

If there are to be meetings between judges and legislators, some structure must be provided, so that "wheel spinning" is avoided. Free time could be built in, so that individual interests could be addressed. But there ought to be programs developed around particular issues, and participants would be able to speak to questions of mutual concern. Conferences could be scheduled in Williamsburg at the Center for State Courts or at some other "neutral" location.

#### Pro:

- Familiarizes legislators with judges' concerns and institutional interests and similarly informs judges. To the extent that conflict reflects lack of awareness rather than different interests, pacific results may follow.
- Permits discussion in settings conducive to understanding of disputes and conflicts that may otherwise ripen into public controversies.

#### Con:

- Legislators and judges are extremely busy individuals who often will not have time to take part in such meetings.

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- Only a limited number of legislators will have the interests in judicial matters generally that would cause them to wish to attend - Judiciary Committee Members, for example. The interests of most Members will be sporadic and issue specific.
- Most judges may feel that they can't profit from such gatherings.
- Will being better informed and mutually aware measurably improve relations?
- There would be the potential for the appearance of impropriety at such gatherings. The attendees could be accused of lobbying each other, and Members of Congress could be accused of ex parte contacts with judges in ongoing litigation.

**B. Less formal, periodic gatherings.**

If the first option is considered too utopian in concept, more restrained meetings where shared concerns could be discussed may be an option. Some gatherings already take place; for example, some Members of the Judiciary Committees meet with the judges attending the semi-annual Judicial Conference. Joint meetings of the two Committees with interested judges could be scheduled from time to time, and Members of Congress could be invited to judicial meetings.

**Pro:**

- These meetings would permit Members of Congress with the greatest personal and institutional interests access to judges in settings conducive to beneficial discussions and assure judges of the lack of possible impropriety.
- In the context of the Judicial Conference, which formulates the policy positions of the federal judges, it would focus the spotlight on matters of greatest interest to both groups.

**Con:**

- Much of what this proposal is designed to achieve may already occur, and formal creation of the mechanism would look like windowdressing.
- Again, Judicial Conference gatherings are issue intensive, making meaningful interaction problematic. And they occur in March and September, when congressional schedules are full. Other judicial gatherings, circuit conferences, for example, are likely to be more convenient.

- Again, are understanding and mutual awareness the solutions to any problems that exist?

## II. ADDRESSING THE INSTITUTIONAL INTERESTS OF THE JUDICIARY.

Article III of the Constitution provides but the sketchiest outline of the Judicial Branch. One Supreme Court, headed by a Chief Justice, is set out, but how many Justices there will be, what the jurisdiction of the Court will be, when it will meet, and numerous other questions are all left to be fixed by congressional enactments. A modicum of original jurisdiction is guaranteed the Supreme Court, but appellate jurisdiction is subject to such "exceptions" and "regulations" as Congress shall make. Whether there are to be inferior federal courts is left to Congress, which "may from time to time ordain and establish" them or otherwise leave federal litigation in state courts. The judicial budget is subject to annual appropriations by Congress. Federal courts are dependent on Congress and numerous problems, conflicts, and mutual recriminations occur.

### A. Provision of adequate judicial resources.

1. As caseload increases, as it constantly does, the judiciary may require additional judges as well as additional magistrate judges and other supporting personnel. The Judicial Conference has developed a formula using a caseload measure weighed by the nature of the cases to determine when additional district and appellate judges are to be requested of Congress. But Congress must authorize any increase, and typically some time elapses before omnibus increase bills are passed. A thought may be given to authorizing an automatic judge increase, at least at the district court level, upon certification by the Judicial Conference. Control could be retained in Congress by requiring that if Congress does not formally ratify the increase within a period of time, the next vacancy in the district will not be filled.

#### Pro:

- Within a reasonable time of determining the need, a judgeship could be created and caseload pressures would be relieved.
- Both Congress and the Judicial Conference would agree on the formula, as they do now, avoiding any serious disputes over its implementation.
- Congress would be spared the work involved in passing periodic increases, and it could maintain oversight, determining over time whether the increases were needed and effective.

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- The Senate and President would be spared large amounts of judicial selections and confirmations, and the courts wouldn't have to absorb large numbers of judges all at once.

Con:

- Determining how many judges there ought to be in the federal system, an issue now strongly debated within the judiciary itself, and whether more judges are needed in a particular district are not technical questions, but are political ones, meriting total congressional control.
  - Giving such power to the Judicial Conference will politicize that body and lead to riveting debates. Maintaining the Conference's role as a recommending body is far the better choice.
2. The Judicial Branch is dependent on annual appropriations by Congress, including everything from judges' salaries to the fees to pay jurors and appointed counsel in criminal cases. In recent years, including the current fiscal year, fund shortfalls have threatened the operations of the courts. Lack of juror funds may curtail or halt civil jury trials and may impede criminal jury trials. Lack of funds to pay appointed counsel would mean criminal cases could not go to trial. The speedy trial provision of the Sixth Amendment and federal statutes would require dismissal of criminal cases not prosecuted within a certain time. Other consequences could result. Thus, consideration could be given to enacting two-year appropriations for the judiciary, or more radically, to establishing a revolving fund or a device of withdrawals from the Treasury. Certain essential functions, like juror and counsel fees, could be covered by this, if not the entire judiciary.

Pro:

- Implementation of such a scheme would prevent the increasing occurrence of judicial breakdowns.

Con:

- Congress would be asked to give up one of its fundamental powers, to determine how much public money should be spent, and would be a substantial lessening of its oversight power.



**B. Attention to jurisdictional impact of legislation.**

Congress is constantly adding to the federal workload. In recent years, many new federal crimes have been created that are simply replicas of state crimes. Civil causes of action are created all the time. Congress has before it now a bill providing both criminal and civil jurisdiction in the context of acts of violence against women. Some order of priorities could be established.

**Pro:**

- Valuable judicial resources could be conserved by close congressional attention to the judicial consequences of passing, retaining, or modifying certain laws. The real question is not the impact on the judges but rather upon the ability of the federal courts to adequately serve citizens.
- The constant increase in the number of federal judges could be halted or at least slowed, and the calibre of the federal judiciary would be kept at a high level.

**Con:**

- Congress should place its priorities where they properly belong, upon the substantive merits of existing and proposed laws and whether the public interest is served. Courts should serve by enforcing and administering a body of law.
- If the Legislative branch became concerned with caseload, instead of whether the public interest was being served, it would provide opponents who object on the merits of the law another opportunity to obstruct.

**III. SERVING THE CONGRESSIONAL INTEREST IN JUDICIAL RELATIONS.**

Many legitimate interests of Congress exist vis-a-vis the courts. Most of the legislation Congress passes will be interpreted by judges, and even with the best intentions, some misinterpretation will occur or, at least, Congress will be dissatisfied by even a correct interpretation. In recent years there has been a notable increase in laws that overrule court decisions applying previous congressional enactments. The Civil Rights Act of 1991 overrode seven decisions of the Supreme Court. Moreover, the judicial and extrajudicial writings of some Justices and judges denigrate the usefulness of legislative history and other sources revealing the meaning of laws, and Congress is concerned about the effect of this view. Still further, the increase in the numbers of courts, judges, and cases creates the opportunity that conflicting interpretations among courts will develop. The courts promote various doctrines, presumptions, and canons of construction, which they believe Congress



utilizes in legislating, whether Congress does or does not. The potential for serious congressional dissatisfaction is large.

#### **A. Institutionalizing congressional awareness.**

Congress should have a system by which it can be informed about judicial decisions. When conflicts between circuits happen, it should be informed, so that it can legislate, if desired, without awaiting a Supreme Court resolution (which would also preserve judicial resources). When a court asserts that it is bound to interpret a law, but suggests Congress ought to take another look to see if the outcome is what it desires, Congress should be informed.

Therefore, Congress should create a body, possibly a committee of Members or an office akin to Legislative Counsel, or it should give to an existing office the responsibility to monitor court decisions and to report regularly to the committees with legislative jurisdiction what problems it discovers.

##### **Pro:**

- Regularizing this process will keep Congress fully informed. It can choose whether to act or not with an assurance that it has the information needed.
- By using this process, Congress can also act to protect its institutional interests, if, for example, it feels that courts are interfering in the carrying out of congressional intent.
- The courts will also be aware that they have a congressional audience, and there will be a dialogue regarding matters of great public concern.

##### **Con:**

- In times of budgetary constraints and public disapproval of the size of congressional staff, steps like this will be detrimental, rather than beneficial.
- This function is not needed because the Department of Justice and other Executive Branch agencies monitor the courts regarding cases within their purview and are expected to request action when it is necessary. Moreover, state and local governments, lobbyists, and ordinary citizens are capable of informing Congress.

#### **B. Promoting institutional awareness of judicial requirements.**

In the past, courts looked to legislative history to find the meaning of ambiguous statutory language. But recently, that course has been less

and less followed. As a result, Congress when it legislates, is forced to try and determine judicially-created rules. But the process of legislating does not easily lend itself to awareness of these rules.

Congress could address this problem in several possible ways. Congress could require all proposed bills, or at least those that are to be actively considered, to be drafted or reviewed by the Office of Legislative Counsel. It could mandate that any bill having an impact on the courts or that will likely be at issue in lawsuits must be reviewed by referral to the Judiciary Committees. It could in the rules of both Houses or in some form in law create a list of things that must be considered in processing a bill: whether there is to be a judicial cause of action, whether the law is to be prospective only or retroactive, whether it is to have a statute of limitation on judicial actions and what that may be.

**Pro:**

- Through one or several of these means, Congress could legislate better so to obviate many of the difficulties it faces in the courts.
- Removal of ambiguities and supplying omissions would result in better laws.

**Con:**

- Judicial rules of construction have no basis in the way Congress operates. Rather than accommodate the obstruction, Congress should take steps to correct the problem itself.
- The suggested steps will impose greater burdens on Congress, bog down the legislative process, increase staffing, and generally disserve the goals Congress seeks to achieve.

**C. Judicial interpretation of legislative history.**

Several Justices of the Supreme Court and some lower court judges have downplayed the value of legislative history and other legislative records as a means of ascertaining the meaning of ambiguous laws. When they look at laws, many in Congress seem to feel, these judges apply a "plain-meaning" analysis, which to Congress, may seem to be a caricature of interpretation. To overcome ambiguity, judges apply canons of construction, which may have no bearing on the way Congress operates and which, in any event, usually come in paired opposites, giving judges complete discretion.

Enacting laws that are absolutely clear and in accordance with the requisite judicial formulae would be one way, but the legislative process

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is not so orderly and many of the judicial formulations have been retroactively applied to what Congress has already done. Several other possible steps are:

1. Legislate that legislative history is not only a proper, but required interpretive tool. The Civil Rights Act of 1991 contains a limited, legal identification of certain legislative history that is to be used. More general enunciations could be enacted into law. Laws bind courts to observe them.
2. Enact rules of construction that direct the courts to follow certain courses.
3. Overrule judicial interpretations of laws more freely and include preambles that express congressional displeasure.

**Pro:**

- These and other possible steps would help Congress better control how the judiciary applies statutory law.

**Con:**

- Anyone who has tried to interpret many federal enactments can appreciate how difficult the effort is, because of both inadvertent ambiguity and conscious decisions to leave unsaid many things that it is impolitic to make choices about. Clarity in legislating is the answer.
- Adoption of the suggested steps is the wrong direction to take. Exacerbation of difficulties already existing between Congress and the courts would not serve anyone's interests.

The Joint Committee on the Organization of Congress  
Database of Positional Statements

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## **ISSUE AREA 9: LEGISLATIVE-JUDICIAL BRANCH RELATIONS**

### List of Options Proposed

1. Judicial Interpretation of Legislative History

Proposal: Judicial Interpretation of Legislative History

## LEGISLATIVE/JUDICIAL BRANCH RELATIONS:

### 1. Judicial Interpretation of Legislative History

POSITION	NAME OF WITNESS	PAGE #	COMMENTS
Use legislative history	Kastenmeier, Robert - Former Representative, Governance Institute	6/29, 77	
	Wald, Patricia - Judge, United States District Court, District of Columbia	6/29, 80	
Rely on text of law	Kozinski, Alex - Judge, United States Circuit Court for the 9th District	6/29, 83	



**SUMMARY OF OPTIONS FOR IMPROVING BICAMERAL RELATIONS**

- I.     OPTIONS FOR IMPROVING CONFERENCE COMMITTEE PROCEDURES.**
  - A.   Select a primary committee when legislation has been referred to more than one committee.
  - B.   Reach an agreement to limit nongermane amendments in the Senate, especially to appropriations measures.
  - C.   Develop joint rules on conference size.
  
- II.    OTHER ORGANIZATIONAL AND PROCEDURAL OPTIONS**
  - A.   Create a parallel House-Senate committee structure similar to the present structure of the Appropriations Committees.
  - B.   Establish joint rules to require a measure's consideration for floor action in one chamber, if it has been approved in the other chamber.
  - C.   Provide for automatic introduction of companion bills for all legislation.
  
- III.   OPTIONS FOR IMPROVING BICAMERAL COORDINATION AND COMMUNICATION**
  - A.   Establish a Joint Policy Committee to promote more regular and continuing contacts between House and Senate leaders.
  - B.   Institute bicameral committee staff meetings under the aegis of party leaders.
  - C.   Reinstitute the informal "Board of Education" meetings of the Rayburn era between House and Senate leaders.
  - D.   Encourage the respective party policy committees of each chamber to meet together to devise long-term policies, synchronize House-Senate agendas, and review the President's State of the Union and other significant messages to Congress.
  - E.   Establish bicameral task forces on a selective basis, chaired by party leaders and including House and Senate committee chairmen, to address policy matters.
  - F.   Adopt similar work schedules for both chambers and create a joint scheduling office.

## OPTIONS FOR IMPROVING BICAMERAL RELATIONS

### I. OPTIONS FOR IMPROVING CONFERENCE COMMITTEES PROCEDURES.

#### A. Select a primary committee when legislation has been referred to more than one committee.

##### Pro:

- Could help large conference committees to operate in a more orderly, efficient, and rational order.
- House Rules already allow the Speaker to designate a primary committee in the case of multiple referrals.
- Could strengthen the Speaker's position with committee chairmen when negotiations get underway on size and composition of conference committees.

##### Con:

- Might be difficult to identify a "primary committee."
- In the Senate, no clear authority for the Leadership to designate a primary committee; would have to be done by unanimous consent or by motion of the joint leadership.
- Could involve leaders in both houses in controversies that would be counter-productive.

#### B. Reach an agreement to limit nongermane amendments in the Senate, especially to appropriations measures.

##### Pro:

- Could limit the size of conferences and improve efficiency since there would be fewer substantive issues requiring agreement.
- This option could improve relations between the chambers.
- Would ensure that House and Senate standing committees review and act on authorizing and other legislative items outside of the appropriations process.

##### Con:

- The Senate would likely object to this curtailment of senatorial prerogatives. Possible Senate attempts at retaliation could lead to intercameral gridlock.

- Could have little effect on the size of House conference delegations since factors other than Senate-passed amendments heavily contribute to House delegation size.
- Although difficult to enforce and fraught with serious implications for House-Senate relations, could result in informal negotiations between the chambers that might produce positive results.

### C. Develop Joint Rules on Conference Size.

#### Pro:

- Precedents for joint rules exist dating from the early years of Congress. More recently, in 1976, the House Democratic Caucus passed a resolution that encouraged House and Senate party leaders and appropriate committees in each chamber to consider the need for joint rules, although the party resolution was not acted upon.
- The establishment of size guidelines could be an effective way to limit the appointment of conferees from each chamber.

#### Con:

- Calls for joint rules have largely been ignored, suggesting that this option would be found unacceptable.
- These rules would significantly alter the fundamental nature of conference committees as largely unfettered bargaining units that can negotiate, make accommodations, and reach decisions with few formal constraints.

## II. OTHER ORGANIZATIONAL AND PROCEDURAL OPTIONS.

### A. Create a parallel House-Senate committee structure similar to the present structure of the appropriations committees.

#### Pro:

- Would "rationalize" committee jurisdictions and allow for easier "synchronization" of legislation.
- Could facilitate public understanding of legislative process, and could improve public perception of Congress.
- Could encourage bicameral coordination of legislation.

## Con:

- Could require complete reconstituting of House and Senate committee system (except for Appropriations Committees), a highly controversial and difficult undertaking.
- Would require an unprecedented level of bicameral cooperation.
- Would impinge upon the prerogatives of each chamber to structure their committees.
- Could be opposed by many present committee leaders and rank-and-file legislators.
- Could end the use of multiple jurisdictions as a check on concentration of committee power.

**B. Establish joint rules to require a measure's consideration for floor action in one chamber, if it has been approved in the other chamber.**

## Pro:

- Could provide for a degree of streamlining, efficiency, and certainty in legislative policymaking.
- Could reduce possibilities for legislative "gridlock," where one chamber acted but the other refused to or otherwise failed to act; could improve public perception of Congress.
- Could encourage bicameral leadership communication and cooperation.

## Con:

- Would impinge on the prerogatives of each chamber to consider or not to consider certain legislation.
- Could impinge on the power of committee chairmen who could be required to take up measures they may not wish to consider.
- Could remove from the Leadership control of their legislative agenda.
- Could antagonize one chamber or the other by forcing it to consider legislation it may not wish to consider, thus, may harm bicameral relations.

**C. Provide for automatic introduction of companion bills for all legislation.**

**Pro:**

- Improves the chances that the same legislation will be considered in both chambers.
- Could, at low cost, improve the public perception of Congress.
- Could provide political cover for Members who might favor a particular bill but would not want to introduce it.

**Con:**

- Could create pressure for committee chairmen to consider legislation not on their agenda, and generally increase committee workloads.
- Would impinge on chamber prerogatives.
- There would be a question of bill sponsorship in the non-originating chamber.
- Printing of bills could be costly.

**III. OPTIONS FOR IMPROVING BICAMERAL COORDINATION AND COMMUNICATION**

**A. Establish a Joint Policy Committee to promote more regular and continuing contacts between House and Senate leaders.**

**Pro:**

- Precedent exists for such an effort. A House-Senate joint policy committee existed briefly in 1931. The 1945 Joint Committee on the Organization of Congress recommended creation of such a panel and the proposal was adopted by the Senate when it passed its version of the 1946 Legislative Reorganization Act; the proposal was rejected by the House and did not appear in the final version of the bill.
- Could provide a formal vehicle to deal with difficult bicameral issues, anticipate problems before they cause discord, engage in long-range planning, and expedite policymaking on priority issues.
- Might be especially useful on certain priority bills to establish basic principles and ground rules.



- With respect to such contacts between committee chairmen, might be useful in coordinating the agenda of parallel committees.

Con:

- Would duplicate already working arrangements.
- Could undercut each chamber's policymaking independence.

**B. Institute bicameral committee staff meetings under the aegis of party leaders.**

Pro:

- Could be used to better coordinate bicameral policymaking, exchange information, and consider selective priority issues, such as health care policy or environmental issues.
- Would formalize and make regular a practice that is common among Hill committee and Leadership aides, but would add weight through participation of leaders.
- Could include House-Senate committee staff from only one party or both parties.

Con:

- Duplicates present working arrangements, less the involvement of Leaders.
- Committee chairs may not agree with staffs taking substantive initiative.

**C. Reinstitute the informal "Board of Education" meetings of the Rayburn era between House and Senate leaders.**

Pro:

- Could be effective as an informal arrangement for resolving bicameral conflicts, developing joint party or institutions' declarations of policy, reviewing congressional and political issues, and planning joint actions, such as joint press conferences or the introduction of companion measures.
- Might be helpful in promoting congressional authority vis-a-vis the White House.
- Meetings would be private and closed to all but those invited, including the media.

**Con:**

- Could duplicate present ad hoc mechanisms for fostering House-Senate relations.
- Success of such an effort depends heavily on the personal chemistry between leaders that could be difficult to replicate.
- Might be resented by Members not invited to attend the closed sessions.

**D. Encourage the respective party policy committees of each chamber to meet together to devise long-term policies, synchronize House-Senate agendas, and review the President's state of the union and other significant messages to congress.**

**Pro:**

- Has been recommended in the past (1945 JCOC) that the joint majority (or minority) policy committees meet with their party's President to form a Joint Legislative-Executive Council.
- If adequately staffed, could engage in long-term policy planning and work to promote policy cohesion between House and Senate.

**Con:**

- Members may prefer present system of ad hoc contacts between the chambers.
- Size of any joint party policy committee might be too unwieldy to reach consensus on bicameral concerns.

**E. Establish bicameral task forces on a selective basis, chaired by party leaders and including House and Senate committee chairmen, to address policy matters.**

**Pro:**

- Creates a legislative working group with the legislative and political stature to overcome congressional obstacles to policymaking.
- Has proven to be a successful technique for the House and Senate in recent years for such issues as campaign reform and ethics revision.

- An informal bicameral effort proved successful in 1975 when the Democratic Task Force on Energy met with an ad hoc subcommittee (appointed by the Senate Majority Leader) of the Senate Democratic Policy Committee to forge an energy-economic recovery program.
- Such a bicameral task force could prove useful on an issue like a budget summit, where broad budget agreements could be reached.

**Con:**

- If task force has bill-drafting authority, it is likely to run afoul of the standing committee chairmen, unless they are included.
- Rank-and-file Members are likely to object to closed-door meetings from which they have been excluded.
- May be subject to political dynamics that could lead to deadlock and failure to achieve policy consensus.

**F. Adopt similar work schedules for both chambers; create a joint scheduling office.**

**Pro:**

- Could provide better coordination for House and Senate consideration of the same legislation; could help resolve scheduling conflicts and move legislation forward.
- Might encourage such joint activities as House-Senate hearings.
- Could enhance bicameral Leadership communications.

**Con:**

- Would impinge on chamber prerogatives.
- Would have to take into account activities unique to each chamber, e.g., initiating appropriations in the House and treaties and nominations in the Senate.
- Would have to take into account differing House and Senate norms with respect to constituent relationships and campaigning.

## SUMMARY OF OPTIONS FOR THE CONDUCT OF OVERSIGHT

### I. CONGRESSIONAL ASPECTS OF OVERSIGHT.

- A. Reduce preoccupation with details of program administration and service delivery, which leads to micromanagement.
- B. Encourage constructive innovation in program administration, management flexibility, and nonstandardized services.
- C. Eliminate outmoded programs and methods.
- D. Avoid wasting valuable resources on mandatory periodic reports.
- E. Make better use of internal agency management assessments, inspector general reports, personnel studies, and supervisory agency analyses (e.g., OMB, OPM, and ISOO assessments).
- F. Set measurable objectives to determine agency/program effectiveness.
- G. Make better use of internal legislative branch information (e.g., GAO reports and constituent mail).
- H. Improve House and Senate internal coordination and management of oversight and investigation proceedings for reasons of efficiency, economy, and effectiveness.

### II. STRENGTHENED EXECUTIVE-CONGRESSIONAL RELATIONS.

- A. Create bridging or linking mechanisms to facilitate the development and implementation of policy.
- B. Better identify overriding, long-term national problems and improve the capacity of both Congress and the executive branch for comprehensive and consultative policy development.
- C. Build a symbiotic relationship through the development of strong management, program performance, and financial information in the executive branch which will improve the quality of information available for congressional oversight.
- D. Develop arrangements whereby disputes involving congressional requests for executive branch information may be resolved in whole or in part without invocations of "executive privilege" and contempt of Congress citations.
- E. Develop arrangements for the continuous, cooperative improvement of the performance of Federal executive functions.

### III. ISSUES CONCERNING LEGAL AUTHORITIES, METHODS AND TECHNIQUES.

- A. Authorize the House General Counsel to appear before federal and state courts to represent the institutional interests of the House.

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- B. Authorize the House General Counsel and the Senate Legal Counsel to seek enforcement of subpoenas against Executive branch officers and employees by means of civil proceedings in federal district courts.
- C. Mandate the appointment of an independent counsel to prosecute Executive branch officers and employee who have been found in contempt of Congress.
- D. Establish the requirement that congressional committees have access to open and closed files in civil and criminal cases, subject to valid claims of executive privilege and the creation of mechanisms to assure confidentiality.
- E. Clarify the rules governing grand jury secrecy to assure that they are not utilized to withhold documents and testimony from committees which they would otherwise be entitled.
- F. Authorize courts to allow committee access to case files sealed at the behest of litigants where nondisclosure would be potentially detrimental the public health and safety.
- G. Clarify the discretionary prerogative of committees to accept or reject a claim of a witness to a common law testimonial privilege.
- H. Broaden the representational role of counsel for witnesses before congressional committees.
- I. Grant specific authority for all committees to allow staff to take depositions of witnesses during the course of investigatory proceedings.
- J. Clarify the obligations and responsibilities of inspectors general with respect to the reporting to Congress their findings of fraud, corruption and maladministration in agency operations.
- K. Amend 18 U.S.C. 1505 to make it a crime to obstruct congressional investigatory proceedings by making false statements.
- L. Order the annual compilation and publication of congressional oversight activities of significance and interest to the Congress.



## OPTIONS FOR THE CONDUCT OF OVERSIGHT

### I. CONGRESSIONAL ASPECTS OF OVERSIGHT.

#### A. Reduce preoccupation with details of program administration and service delivery, which leads to micromanagement.

1. Confine attention principally to assure that rules and regulations are consistent with the statutes they implement and to breaches of rules and regulations which seemingly violate law and/or constitute maladministration.

**Pro:** Such action would Promote more efficient, economical, and effective oversight. Congress would focus on "big picture," and not get lost in the details.

**Con:** Such a focus could provide an unnecessary basis for the executive branch to refuse to cooperate with oversight efforts when and if Congress conducted a more detailed review; also, congressional committees may not easily accept such limitations on their oversight authority.

2. Increase attention to satisfaction of end users of government services and direct beneficiaries of programs.

**Pro:** Congressional focus on delivery of services would promote results-oriented, customer-driven oversight and may provide a better basis for evaluating innovation in program administration and services delivery.

**Con:** Rarely will program beneficiaries be totally satisfied, and a focus on this aspect alone must be balanced with a review of agency adherence to statutory objectives within funding constraints.

#### B. Encourage constructive innovation in program administration, management flexibility, and nonstandardized services.

1. Utilize the oversight process to air the ideas and suggestions of executive branch employees and private sector organizations for improving management and the delivery of services.

**Pro:** By focusing on these issues, oversight would promote efficiency, economy, and effectiveness in the performance of executive functions and government operations.

**Con:** Such attention to the views of individuals may only give an opportunity for disgruntled government employees, faultfinders, and cranks to be heard without necessarily focusing on enforceable or manageable proposals.

2. Congress should give agency managers greater discretion in the use of resources, holding them responsible through oversight for program outcomes and for not exceeding their gross budget allocations while also assessing their innovations in service delivery and mission accomplishments.

**Pro:** Greater senior management discretion would promote innovation--doing more with less--at a time of resource scarcity. Fund waste may be reduced if managers have more discretion in allocation of resources.

**Con:** This proposal assumes all managers are able and willing to innovate to the benefit of agency clientele. Evidence suggests that such willingness to experiment is not universal in the executive branch. Misuse of funds and mismanagement may increase in the absence of firm standards for program achievement.

#### C. Eliminate Outmoded Programs and Methods.

1. Congress should legislate "sunset" requirements for major Federal programs and services, necessitating a recorded vote by each House approving the continuance of each program in whole, in part, or in modified form.

**Pro:** Sunset processes promote efficiency, economy, and effectiveness in program administration and service delivery. They are helpful in setting a basic oversight agenda, and no committee responsible for a program will willingly allow it to expire without serious deliberation.

**Con:** Sunset review, within the context of other essential committee work is too time consuming, and the press of other duties may turn sunset review into a pro forma exercise.

2. Congress should make greater use of temporary pilot or demonstration projects, which would be carefully evaluated through oversight, to test service delivery alternatives to those of existing programs.

**Pro:** Pilot projects involve little risk and reduce the prospect of massive waste. In a period of limited resources, they initially commit little, and can be readily reviewed for success before putting substantial funds into an omnibus effort. Experimentation can be accepted more readily in a pilot project.

**Con:** The pilot may cause too much time to be devoted to a small scale effort. Essential national programs work may be delayed by focus on these trial efforts. In addition, what may work well in a local pilot may not work at all when expanded to a national level. It may be relatively easy to disguise as a pilot what is, in fact, just "pork."

**D. Avoid wasting valuable resources on mandatory periodic reports.**

1. Instead of requiring mandatory written reports, executive branch leaders should appear before congressional overseers from time to time to provide, through briefings and testimony, the kinds of information sought through periodic report requirements.

**Pro:** These in-person briefings may promote efficiency and economy in the reporting process, and allow for interaction between managers and Members of Congress resulting in more effective oversight.

**Con:** Written reports are often prepared by subordinate staff while personal briefings require senior staff or cabinet-level appointees. Such routine reports may not be an efficient use of senior staff and member time. Oral presentations may lack the detail valuable in written reports.

2. Any Member of Congress proposing a mandatory periodic report in legislation should be obligated, before such a requirement is adopted, to specify its content, subject to subsequent amendment, and to provide sunset and minimal justification for the requirement, and to identify the financial costs of producing such reports.

**Pro:** Greater attention to such details by report proposal sponsors and committees could promote efficiency and economy in the reporting process, and result in more meaningful reports.

**Con:** The cost and scope requirements may be too burdensome, or may be ignored especially since many reporting requirements are imposed as a compromise for amendments offered late in the legislative process. Having fewer reports overall may needlessly limit information available to Congress.

**E. Make better use of internal agency management assessments, inspector general reports, personnel studies, and supervisory agency analyses (e.g., OMB, OPM, and ISOO assessments).**

**Pro:** Using the agencies own documents may promote efficiency and economy in the reporting process; may contribute to more effective oversight; and make the agency authors of such internal reports more accountable.

**Con:** Such reports may be withheld for separation of powers or deliberative privilege reasons, or be less forthright if authors know they will be examined by congressional committees.

**F. Set measurable objectives to determine agency/program effectiveness.**

1. Federal agencies and programs should be mission-driven, with mission statements providing a focus on the purpose of each organization, calling attention to what is important, and setting organization goals to align practices with values.

**Pro:** Clearer statements of agency and program goals may promote agency efficiency, improve the morale of staff, motivate better results.

**Con:** Setting agency missions and program goals is a complex task which is difficult to achieve so that outcomes are agreeable to both Houses and both branches. To some degree, the current vagueness of mission statements encourages flexibility and may promote policy compromises.

2. Establish strategic planning evaluation and performance measurement for Federal agencies and programs with a view to creating results-oriented government.

**Pro:** Strategic planning can increase agency efficiency, economy, and effectiveness in the performance of its duties. Periodic reappraisals can uncover policy disappointments and highlight successes.

**Con:** Strategic planning suffers from many of the short-comings of setting agency mission statements. Furthermore, such planning may divert needed resources from carrying out current duties and responsibilities.

**G. Make better use of internal legislative branch information (e.g., GAO reports and constituent mail).**

1. Consolidate and improve congressional followup on GAO reports by specifically tasking authorization/sunset renewal committees, the appropriations committees, or the House Government Operations/Senate Governmental Affairs committees with this responsibility.

**Pro:** Such requirements would force congressional acknowledgment of findings, and might result in more clearly defined impact from such analyses and data. In an era of scarcity, this option makes better use of current resources.



**Con:** Oversight findings and other data may not be accepted by overseers and mandatory action on them may be unenforceable. The Government Operations Committee has not, in the past, been willing to act as the oversight "traffic cop" for the House; similar views may prevail on the Senate Governmental Affairs Committee.

2. Create an arrangement whereby constituent complaints about particular agencies and programs might be examined, with personal privacy protections, and used to prepare assessment reports for congressional overseers.

**Pro:** This option could promote efficient and effective oversight, and bring casework and constituency service more directly into the legislative process. In an environment favoring cutbacks in staff, such use could help to promote the retention of casework staffs.

**Con:** Such assessment reports may be inappropriate or, if prepared, unreliable if Members' or oversight staffs have previously intervened and agencies have resolved the complaints. There may also be privacy issues involved in Members sharing casework data with committees, as well as political reluctance by Members to lose complete control of casework. Constituent complaints may not be an unbiased source of information.

**H. Improve House and Senate internal coordination and management of oversight and investigation proceedings for reasons of efficiency, economy, and effectiveness.**

1. The leadership of the House and the Senate should use temporary select committees to examine major scandals or crises of national significance, cutting across the jurisdictions of various permanent committees, and meriting lengthy periods of time for scrutiny.

**Pro:** This plan would promote more efficient oversight as fewer panels would be competing for dominance in the issue.

**Con:** This is not a new idea, as shown by the Iran-Contra, October Surprise, and other investigations. Such panels add additional work burdens for their Members, take time to assemble and act, and may limit the range of views available to the Congress on controversial issues.

2. The leadership of the House and the Senate should establish arrangements to coordinate oversight efforts in each House of Congress and to restrain duplicative oversight activity.

**Pro:** If successful, such coordination could result in more efficient, economical, and effective oversight.



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**Con:** Oversight by more than one panel may be useful. Moreover, the House has already abandoned prior attempts recommended by the Bolling Committee to achieve better oversight coordination. House and Senate committee rules also encourage competition among panels in doing oversight.

3. An inventory of Federal programs could be useful to plan, coordinate, and execute oversight by congressional committees and assisting support agencies.

**Pro:** A complete appraisal would give the Congress and its committees a broad picture of Federal activities and efforts. It might also assure that obscure programs are reviewed at least on an periodic basis.

**Con:** Flexibility of oversight committees might be curtailed if required to adhere to a single list of programs. Moreover, CRS is already required to notify committees of terminating programs and authorizations biennially, and CBO can identify for each authorizing committee the programs for which it is responsible.

4. Efforts should be made, where scheduling and common subject matter permits, to arrange joint oversight hearings between authorization and appropriation subcommittees within each House of Congress and between subcommittees of the House and the Senate having jurisdiction over matters of international relations and national security.

**Pro:** Such a plan would minimize duplication of oversight effort, and might also minimize controversy between the appropriations and authorizing committees about program and policy priorities.

**Con:** Such scheduling might prove too difficult to achieve. Joint actions by the two types of committees might exacerbate conflicts instead of smoothing them out. Fewer oversight activities might stifle oversight initiative and diversity.

## II. STRENGTHENED EXECUTIVE-CONGRESSIONAL RELATIONS

A. Create bridging or linking mechanisms to facilitate the development and implementation of policy.

1. Establish a joint legislative-executive conference (patterned after the Administrative Conference of the United States) to provide continuing attention to legislative-executive relations and prepare an annual report to the President and bipartisan leadership of both Houses on issues between the branches.

**Pro:** Such a conference would act as a sort of Council of State for setting a policy agenda, and could be useful to resolve interbranch conflicts before they erupt in prolonged floor debate.

Also, ad hoc working groups might be utilized to expedite conference work, reduce time demands on all members of the conference, and encourage candor.

**Con:** The conference may prove to be too unwieldy if large numbers of leaders and their staff are involved; meetings may assume a formal character with a consequent loss of candor.

Also, the new formal structure could prove to be less useful than current informal meetings of congressional leaders with the President.

2. Establish regular, structured staff-to-staff working groups, personnel exchanges, and joint training programs to facilitate interbranch communications during policy development and program implementation.

**Pro:** Secretariat support for and management of these staff-to-staff activities could be vested in the joint conference (see above). Resulting interbranch communications could eliminate misunderstandings and conflicts as well as reduce mistrust between staff of different branches.

**Con:** Congressional staff, who are employed as a consequence of their personal loyalty and service to a Member, may be unwilling to engage in interbranch personnel exchanges or to even spend prolonged periods of time in training. Staff temporarily serving in an exchange position may not be accepted by host entity colleagues or assigned meaningful work because they are viewed as transitory and/or politically untrustworthy.

3. Encourage performance-based, citizen/customer-oriented program and regulatory demonstrations in specific policy areas or programs, with the involvement of executive branch agencies and relevant congressional committees.

**Pro:** This option would re-establish an orientation toward program customers and end users of government services, forcing both branches to consider how well the public is served. Such a program base requires both branches to mutually set goals or performance standards for the services each manages or oversees. It places increased accountability at the service delivery level.

**Con:** This proposal overlooks the extent to which the Federal Government no longer provides services directly, relying instead on contractors, State and local governments, and quasi-public organizations. Setting program goals or performance standards acceptable to the principals of both branches is a complex task requiring information sharing, agreement on systems for monitoring, and making decisions against the standards.

**B.** Better identify overriding, long-term national problems and improve the capacity of both Congress and the executive branch for comprehensive and consultative policy development.

1. Draw on the resources of the executive branch, the President, and the congressional leadership to establish an agenda of national needs and goals.

**Pro:** If successful, the agenda could be incrementally implemented and, as changing conditions warrant, adjusted both substantively and tactically.

**Con:** It would be extraordinarily difficult to develop a common agenda and find appropriate forums for action without advocating a departure from the separation of powers blueprint.

2. Congress should assess and appropriately adjust its organizational capacity, institutional arrangements, and analytical resources to respond effectively to broad-scale executive plans and proposals in pursuit of national needs and goals and to develop comprehensive and well-considered alternatives.

**Pro:** Such actions could create a committee structure and professional staff resources to more effectively and economically meet congressional responsibilities and priorities.

**Con:** Such a reorganization could require enlarged staffing with consequential budget increases and bureaucratization. Furthermore, it may be extremely difficult to develop new structures and arrangements suitable to large numbers of Members in both chambers.

**C.** Build a symbiotic relationship through the development of strong management, program performance, and financial information in the executive branch which will improve the quality of information available for congressional oversight.

1. Executive branch leaders should build a strong planning, budget, financial, and management information capacity throughout the departments and agencies to support effective, performance-oriented program management.

- Pro:** These changes could lead to the replacement of differing, largely incompatible, and often ineffectual accounting and control systems. Consequently, the quality of information needed by OMB and agency managers would be more comprehensive and uniform, enhancing cross-agency comparisons.
- Con:** Such information systems would increase bureaucratic overhead costs during a time of scarce resources. Setting performance standards that are acceptable to both branches is a complex task requiring information sharing, agreement of systems for monitoring, and making decisions against the standards.
2. Each House of Congress could focus on critical policy and performance issues and define an oversight agenda.
- Pro:** Such attention to major issues would promote efficient and effective use of resources for oversight.
- Con:** The effort to set performance standards essential for such work is a complex task which is difficult to achieve because the resulting standards must generally be agreeable to both branches. It is difficult as well to achieve a sufficiently flexible agenda capable of being adapted to changing circumstances.
3. Each House could adopt a two-year budget process with the off year devoted to program authorizations and oversight.
- Pro:** The two-year process allows for greater congressional scrutiny of programs without the pressure of constant reauthorization and appropriations decisions.
- Con:** Without sufficient flexibility, the two-year cycle could discourage congressional investigations into quick-breaking events during the time period not devoted to oversight. Many see annual authorizations as the most effective device for forcing regular oversight.
4. Each House could take steps to require accurate, timely, and reliable policy and program information from the executive branch.
- Pro:** More clearly enforceable standards and better data quality would promote effective oversight and program adjustment through the authorization process.
- Con:** There is no guarantee that the executive will always comply with information requests because of national security or executive privilege claims.



- D. Develop arrangements whereby disputes involving congressional requests for executive branch information may be resolved in whole or in part without invocations of "executive privilege" and contempt of Congress citations.
1. The joint conference (see above) or a designated subunit might serve as a forum for discussing information request disputes with a view to their resolution through modification of their scope, response format, and/or attending security conditions.
- Pro: The conference or some other appropriate unit might minimize disputes for access to data between the branches, and might also improve coordination of activities between them along with a better comprehension of the institutional role of each.
- Con: The consultative body may be unnecessary in light of congressional subpoena and contempt authority, and the regular, informal consultations may cause unplanned disclosures of information embarrassing to either or both branches.
2. Vest the United States District Court for the District of Columbia with jurisdiction over civil actions brought by either House of Congress, or a properly authorized committee, for a declaratory judgment as to the validity of a subpoena for information directed at an executive branch officer acting in his or her official capacity.
- Pro: Such authority to the Courts would provide an automatic mechanism to determine the validity of congressional requests for data or for the appearance of a witness. Congress would not have to rely upon the administration to bring charges against itself.
- Con: The automatic nature of this process could be the most compelling argument against it; frequently, the administration and the Congress reach a compromise without resorting to the courts. The automatic court involvement overturns two centuries of creative tension between the President and Congress.
- E. Develop arrangements for the continuous, cooperative improvement of the performance of Federal executive functions.
1. Congress should assess and appropriately strengthen its organizational capacity, institutional arrangements, and analytical resources to oversee the extent, consequences, and desirability of all entities that carry out executive functions.
- Pro: Such strengthened resources could promote efficient, economical, and effective performance review of executive functions.



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**Con:** Strengthened resources almost always mean enlarged staffing with accompanying budget increases and bureaucratization. It is also difficult to develop new structures and arrangements which are widely accepted as superior to existing ones for overseeing the extent, consequences, and desirability of all entities that carry out executive functions.

2. Congress should rebuild its institutional capacity to review and evaluate proposed organizational changes for entities that carry out executive functions.

**Pro:** Reviewing reorganization of governmental structures requires the assembly of a cadre of skilled analysts working with Members of Congress interested in a difficult and detailed process. Devoting resources to such narrow and technical issues could result in substantial payback in better agency management and program implementation.

**Con:** While such a staff may be useful, establishing it and paying for it may be difficult to defend in the midst of calls to reduce spending at the top levels of the Congress and the Executive. Some could also view this proposal as yet another attempt by Congress at micromanagement.

3. Congress and the President should strengthen the capacity of the Office of Management and Budget to monitor, review, and evaluate, on a continuing basis, the structure of executive functions as well as the managerial and organizational adaptations required to adjust to broader forces of social and economic change.

**Pro:** This would be another means to promote efficient management in the Federal Government, but by a means controllable by the President so as to minimize concerns about separation of powers.

**Con:** The proposal might substantially enlarge the staff of the Office of Management and Budget, and might undermine the key role OMB staff plays in budget formulation and spending control at a time of major concern about the deficit. It could result in another attempt to give a well-run agency additional duties that render effective performance by it impossible. Such duties might more appropriately be assigned to an office of management or an enhanced OPM.

### III. ISSUES CONCERNING THE AUTHORITIES, METHODS AND TECHNIQUES.

#### A. Authorize the House General Counsel to appear in any state or federal court on behalf of the House when it is representing institutional interests of the House.

**Pro:** Such authority would eliminate the delay and unnecessary expense incurred in hiring local counsel.

The authority of the General Counsel would be enhanced by this formal, continuing grant of authority.

Such statutory authorization is currently enjoyed by the Senate Legal Counsel (2 U.S.C. 2881) and has facilitated constitutional litigation function of that officer.

**Con:** Where the Office does not represent the interests of both the majority and minority parties in the House, permanent authorization may weaken the incentive to seek bi-partisan agreement on the necessity to resort to litigation that affects the institutional concerns of the body.

#### B. Authorize the House General Counsel and the Senate Legal Counsel to seek enforcement of subpoenas against Executive branch officers and employees by means of civil proceedings in federal district courts.

**Pro:** The current enforcement through statutory contempt process is time consuming, unwieldy, and unduly confrontational.

The current statutory mechanism provides for criminal prosecution and sanctions but not assure compliance with the informational demand.

A certification of contempt does not require a U.S. Attorney to seek an indictment or prosecute a contemnor and it is doubtful that a statutory direction to do so would be held constitutional.

A civil contempt action would be less intrusive on the President's ability to assert privilege than it would be in a criminal proceeding.

The Senate Legal Counsel is presently authorized to seek civil enforcement of Senate committee subpoenas against private persons, a process that allows for expunging the contempt finding upon compliance, which encourages production of requested documents.

**Con:** Civil proceedings can be protracted and may be resorted to as a means of unduly delaying the timely provision of subpoenaed matter.

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Encouraging resort to court resolution of interbranch conflicts would undermine potential political accommodations settling disputes. Court intervention could lead to rigid judicial definitions of the boundaries of executive and congressional privileges and prerogatives.

The history of congressional-executive negotiation and compromise of interbranch disputes respecting privileges and prerogatives suggests that Congress does not need a civil judicial mechanism to protect its interests.

- C.** **Mandate that an independent counsel be appointed pursuant to the provisions of the Ethics in Government Act to bring prosecutions against executive branch officials who have been held in contempt of Congress for failure to comply with a subpoena by either House of Congress and have been so certified to the Special Division of the Court of Appeals for the D.C. Circuit.**

**Pro:** Use of the independent counsel mechanism is justified by the potential conflict of interest inherent in any executive prosecution of an executive branch official and the past history of refusals of U.S. Attorneys to seek indictments in such cases.

A criminal sanction is necessary to ensure timely compliance for requested documents or testimony.

The meaningful threat of criminal sanctions will deter the frivolous or insubstantial claims of privilege and encourage negotiated resolution of privilege disputes.

**Con:** It is inappropriate in a system of balanced powers to resolve good faith disputes between two co-equal branches of government over the scope of their respective inherent constitutional powers by means of a criminal prosecution.

It is unfair to force an individual official representing one branch of government to risk criminal sanctions to vindicate the rights of that branch.

Congress has historically been successful in using the political process to obtain necessary information without resorting to the threat of criminal sanctions.

The political branches are better able to accommodate their conflicting interests on a situation-by-situation basis whereas the courts are ill-equipped even to define clear standards to resolve such political disputes.

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**D. Establish by statutory rule the availability to committees of open and closed files in criminal and civil cases, subject to a valid claim of presidential privilege.**

**Pro:** Congress has the plenary authority and obligation to probe and expose fraud, corruption and maladministration including instances when it occurs in the Executive's conduct of litigation or with respect to the underlying circumstances that have given rise to litigation or prosecution.

In the past, committees have been sensitive to the rights of third parties that may be affected by the investigatory process and have made accommodations to preserve such rights while not inhibiting the power of Congress to obtain information.

Committees in the past have established, and would not be precluded in the future from establishing, methods and procedures to protect the confidentiality of information regarding reputations, techniques, processes, strategies, or constitutional privileges.

The courts have mitigated the effects of potentially prejudicial pre-trial publicity by postponing the date of commencement of a trial.

**Con:** Postponement of trials never guarantees the full eradication of the effects of prejudicial pre-trial publicity.

The Executive has the duty to protect the rights of innocent third parties.

Protecting the identity of confidential informants is essential to effective law enforcement.

Disclosure of the governments strategy in anticipated or pending judicial proceedings undermines effective law enforcement.

Unlimited access to open or closed litigation files interferes with the President's constitutional duty to faithfully execute the laws.

**E. Clarify the rules governing grand jury secrecy to assure that they are not utilized to withhold documents and testimony from committees to which they would otherwise be entitled.**

**Pro:** Current case law is not entirely clear with respect to a committee's right of access to documents and testimony that do reveal what transpired before a grand jury.



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Department of Justice use of a mosaic theory, i.e., collections of documents presented to a grand jury, each of which would be individually disclosed, are exempt because collectively they might reveal agency strategy or what went on before the grand jury, should be expressly precluded as presumptively and inherently obstructive of committee investigative authority.

**Con:** The historic secrecy of grand jury processes have not been demonstrated to present a problem of interference with congressional investigational authority.

In the rare instances when a collection of documents may reveal what transpired before a grand jury, non-disclosure is justified and should be deemed a de minimus intrusion on congressional prerogatives.

Case-by-case judicial resolution of such access questions is superior to a blanket disclosure requirement in all circumstances. A blanket rule would preclude negotiated accommodations that frequently occur in practice.

**F.** Authorize courts to allow Congressional Committee access to case files sealed by court order at the behest of settling parties in suits involving product liability, financial institution improprieties, private antitrust violations, or other litigation raising issues of widespread public health, safety, or financial integrity concern.

**Pro:** The practice of virtually automatic judicial sealing of court records at the request of parties settling suits that involve evidence of potential danger or harm to the public health, safety or financial integrity delays or obstructs Congress' ability to know about such issues so that it may consider and take appropriate legislative action in a timely fashion.

Privacy concerns can be accommodated by committees on a case-by-case basis.

The public interest in disclosure of public safety, health and financial institutional integrity outweighs the parochial concerns of private litigants.

**Con:** Disclosure to committees will impede or discourage settlement of litigation.

The potential for disclosure will inhibit the discovery process.

Disclosure motions will impose an additional burden on court resources where blanket seals have been granted.



**G.** Clarify the discretionary prerogative of committees to accept or reject a claim of a witness to a common law testimonial privilege.

**Pro:** The attorney-client and other common law privileges are judge-made exceptions to the general court policy of broad disclosure in order to assure the optimal operation of adversary system and is therefore inappropriate to import into the legislative forum where the investigatory process is non-adversary in nature.

The consistent practice of committees of both Houses of the Congress has been to weigh legislative need, public policy, and the statutory duty to engage in continuous oversight, against any possible injury to the witness, including whether a court would recognize the privilege in the judicial forum.

Establishing the committee prerogative by clear legislature rule will save committee and witness time and resources spent over debating the availability vel non of the privileges and allow focus on the balancing process.

There is no evidence that the absence of the attorney-client privilege before the British Parliament, or the practice of discretionary denial by congressional committees, has in any way adversely affected the nature or sanctity of the lawyer-client relationships either here or in Great Britain.

**Con:** Denial of the attorney-client and work product privileges unnecessarily intrudes on the confidentiality and privacy of communications between a client and his attorney and the ability of an attorney to prepare his case, and fosters a fear on the part of clients in communicating confidential matter to their attorneys, thereby undermining a citizens right to effective assistance of counsel.

**H.** Broaden the representational role of counsel for witnesses before congressional committees.

**Pro:** Establishing a broad, active role for counsel for congressional witnesses would eliminate the present inconsistent practices between committees and even between proceedings before the same committee, and thereby foster consistency and certainty in the protection of witnesses' rights to receive effective assistance of counsel.

**Con:** Present rules assure that counsel may protect the constitutional rights of client witnesses but does not preclude a wider role for counsel at a committee's discretion. A uniformly enhanced role for counsel in investigatory proceedings would risk transforming them into adversary proceedings which defeats their essential purpose.

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- I. Grant specific authority for all committees to allow staffs to take depositions of witnesses during the course of investigatory proceedings.**

**Pro:** Staff depositions may assist committees in obtaining and screening information quickly and confidentially without the necessity of Members devoting time to lengthy hearings which may be unproductive because witnesses do not have the facts needed by the committee or refuse to cooperate.

Depositions are conducted in private and may be more conducive for candid talk than would be the case at an open hearing.

Statements by witnesses that might defame or even tend to incriminate third parties can be verified before the statements are repeated in an open hearing.

Depositions can help a committee prepare for questioning a witness at a hearing or can obviate the need to call some witnesses.

The efficacy of staff depositions has been demonstrated in the numerous individual instances in which specific authority has been granted.

**Con:** Legal questions may be raised concerning the ability to enforce a subpoena for a staff deposition by means of contempt sanctions and the application to such a deposition of various statutes that prohibit false material statements.

Unrestrained staff may be tempted engage in tangential inquiries.

Depositions present a "cold record" of a witness's testimony and is not as useful for Members as in person presentations.

- J. Clarify the relation between Congress and agency inspectors general with respect to the reporting to Congress their findings of agency fraud, corruption and maladministration.**

**Pro:** A currently effective Department of Justice opinion holds that "IG's are under no obligation under the Act to disseminate confidential law enforcement information" requested by congressional committees, thereby substantially undermining their oversight capabilities.

Congress has the plenary authority and obligation to probe and expose fraud, corruption and maladministration, including evidence of instances when it occurs, and may not be precluded from fully informing itself at any stage of the Executive branch process of administration, examination, investigation or prosecution.

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In the past Congress has been sensitive to the rights of third parties affected by the investigatory process and has been able to make accommodations to preserve such rights while not sacrificing its prerogative to obtain information.

Committees in the past have successfully established methods and procedures to protect the confidentiality of information regarding reputations, investigative techniques, decisional processes, litigation strategies, or constitutional privileges.

The Department of Justice incorrectly interprets the language and legislature history of the IG Act as limiting congressional access to information with respect to the specific findings and conclusions of inspector general investigations.

**Con:** Premature disclosure of active criminal investigations to Congress would disrupt such investigations and unconstitutionally interfere with the Executive's exercise of prosecutorial discretion and the duty to faithfully execute the laws.

Disclosure of the government's strategy in anticipated or pending judicial proceedings undermines effective law enforcement.

Disclosure of open criminal investigatory files can potentially prejudice the rights of third parties and could expose confidential sources.

**K. Amend section 1505 of Title 18, United States Code, to make it a crime to obstruct congressional investigatory proceedings by making false statements.**

**Pro:** A recent appellate court decision held that lying to a committee does not constitute a unlawful obstruction of a congressional inquiry under 18 U.S.C. 1505, thereby undermining congressional oversight authority.

Establishing that lying to a congressional committee is an unlawful obstruction of a legislative proceeding appropriately emphasizes the dignity and importance to be accorded such proceedings.

**Con:** Amendment of the statute is unnecessary because false statements may still be prosecuted under 18 U.S.C. 1001.

- L.**     **Order annual compilation of oversight activities of significance and interest to Congress.**
- Pro:**    Such a compilation would provide over time a cumulative body of information and precedent with respect to the nature of oversight actions being taken, the techniques of oversight being utilized, and the manner in which oversight disputes are being resolved. It could serve as a vehicle for the education of Members, committees and staff as to the prerogatives and techniques of oversight and investigations, a central repository of institutional memory that would be available for future reference as to range of oversight options available, and as a growing body of precedent that would facilitate interbranch dispute resolution. The Congressional Research Service could be tasked with the monitoring, compilation, publication, and dissemination function.
- Con:**    Such a compilation would be costly and time consuming; the House published such compilations in the 1970's but discontinued them for that reason coupled with small readership. There could be no assurance that the examples compiled would not be so selective as to skew the perspective of the actual weight that might be given to reported accommodations.



## OPTIONS FOR IMPROVING PUBLIC UNDERSTANDING

Unlike the other two branches of government, Congress has no institutional structure and activities to welcome visitors, to answer questions, and to act as a clearinghouse for information.

In short, Congress has not done a good job of explaining or presenting itself to the public. Many citizens do not understand the legislative process, have much knowledge of issues Congress addresses, or are aware that the institution was created to be deliberative, cautious and to arrive at decisions through compromise.

Citizens primarily get their information about Congress through the news media. The news hole for government coverage is shrinking and what exists is filled more by news of the executive than the legislative branch. And while individual members are covered heavily, Congress as an institution is not. Moreover, when the institution is covered, it is often portrayed in a negative light. Various factors, including a complex legislative process and no central voice, make Congress an inherently difficult institution to cover. There may, however, be steps Congress can take to make coverage easier.

A lack of understanding is likely contributing to the low public esteem for the institution. This is not to say that Congress needs to do a better public relations job to solve its low approval ratings. But the issue of public understanding gets to the need for a democratic society to have a well-informed and involved citizenry. The system of government works best when citizens and their representatives can reflect on issues, then debate, discuss, and decide them.

To address public understanding, Congress can assess how it interacts directly with the public, how it conveys information through the media, and how students learn about Congress in the classroom.

The following is a beginning list of ideas for improvement in each of these areas. More suggestions are being collected through interviews with people expert in these areas.

Some of the suggestions, such as the visitor's information center, are well developed and have already had some review. Other ideas are much less developed. The committee staff can do more research and provide a forum for discussing and reviewing those suggestions the Members believe are worth pursuing.

### I. IMPROVING DIRECT INTERACTION WITH THE PUBLIC.

#### A. Improve information and facilities available to tourists.

1. Install informational, interactive electronic kiosks on Capitol Hill which could have the following capabilities.
  - a. Congressional statistics.



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- b. Program on how a bill becomes law.
- c. Explanation of congressional procedures.
- d. Congressional director.
- e. Calendar of events.
- f. Information on issues before Congress.
- g. Survey or other opportunity for visitors to record their views.
- 2. Implement the Architect of the Capitol's plans for a visitor's information center.
- 3. Implement aspects of the Architect's plans for a visitor's information center.
  - a. Create an orientation theater.
  - b. Establish tourist information booths.
  - c. Improve visitor facilities.
  - d. Use television monitors.
  - e. Package floor debate in audio and video form.
  - f. Improve the capitol gift shop.
  - g. Offer children's books and materials on Congress.
  - h. Offer briefings for selected groups of visitors.

**B. Improve the availability of information to citizens outside Washington.**

- 1. Install informational, interactive electronic kiosks in District offices or Federal depository libraries.
- 2. Establish a non-partisan public information office.
- 3. Allow public access to congressional materials through databanks.
  - a. Establish within the Government Printing Office a gateway service, identifying Federal databases and connecting callers to agency online services.
  - b. Provide connection through other agencies such as the Department of Education, Library of Congress, or National Science Foundation.
  - c. Provide connection through sites at the Federal depository libraries.
- 4. Establish an 800 number for quick, factual information about Congress's basic activities.
- 5. Provide one-page summaries of legislation with a pro-con analysis.

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6. Publish guides to Congress.
7. Have the House and Senate file end-of-the-year reports which summarize their major activities in a readable way.
8. Use routine government mailings to explain federal programs.

C. Explain proceedings better.

1. Conduct proceedings and present legislative products in plain English.
2. Provide simultaneous translation and commentary on C-SPAN.
3. Schedule Oxford Union-style debates on major issues and policies as well as on specific legislation.
4. Establish a form of "question period" for administration officials to answer questions from Members.

D. Encourage more use of video teleconferences to reach citizens outside the beltway.

1. Give committees a budget allocation for video teleconferences.
2. Relax the rules to allow video teleconferencing to be used beyond committee hearings.

## II. IMPROVING COMMUNICATION WITH AND THROUGH THE MEDIA.

A. Strengthen the institutional voice.

1. Expand opportunities for the media to question congressional leaders at length and in depth.
2. More communication from leadership on floor action and updated information on the congressional agenda.

B. Better access to information.

1. Access to data bases.
2. Access to CRS products, data bases, and specialists.
3. Timely access to hearing transcripts.

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4. Timely access to footage of day's proceedings from the recording studio.
5. Renew the institutional commitment to holding committee hearings and mark-up sessions in public.
6. Apply FOIA to Congress in a full or limited manner.

C. Better adaptation to the news-gathering process.

1. Deliver speeches and releases to the press galleries before delivering them on the floor to allow correspondents time to prepare and to make a case for a story to an assignment editor so space and/or air time will be reserved.
2. Don't bunch up activities on Wednesdays and Thursdays; hold hearings, floor activities and press conferences on all five days of the week, on weekends and during recess when reporters are hungry for news including C-SPAN which prefers to cover events live when possible.
3. Reduce response time to events as the news industry is based on timely reaction.
4. Encourage staff members with knowledge of bill details to be available for questions when the bill is being discussed.

D. Easier access for taping and filming inside the Capitol.

1. Permit "stake-outs" of policy luncheons or take advantage of likely live coverage by C-SPAN of a press briefing after the policy luncheons before the Senate comes back into session.
2. Allow broadcast coverage of dugouts and Speaker's press conferences.
3. Establish a permanent stake-out location off the Senate floor to enable reporters to interview Members as they come and go.
4. Less restricted access with portable equipment in the building.

E. Establish a non-partisan central information office to make Congress more accessible and understandable to foreign press corp members, and regional reporters both in and outside Washington.

1. Create the office by expanding the duties of the Senate Historical Office and the House Office of the Historian.
2. Create the office by expanding the duties of the media

- galleries.
  - 3. Create a new office based on the Supreme Court's media office, or that in the support agencies.
- F. Make efforts to improve the press-source relationship.
- 1. Allow access to the people with information, such as policy committee staffers, without going through the press secretary. Or, bring the press secretary into the policy-making apparatus and give them access to information.
  - 2. Use informal sessions with members of the media to improve relations.
  - 3. Establish a regular meeting with journalists to discuss problems and frustrations of both sides.
- G. Take advantage of existing technology and prepare for new capabilities.
- 1. Use robotics cameras in the Senate Radio & TV Gallery studio to air press conferences on the in-house cable system.
  - 2. Anticipate three additional C-SPAN channels in three years.
  - 3. Anticipate a future with 500 cable channels, a proliferation of on-line computer services, and audio access to proceedings transmitted over phone lines.

### III. IMPROVING UNDERSTANDING THROUGH EDUCATION.

- A. Improve scholars access to information.
- 1. Allow access to congressional materials through data banks.
  - 2. Examine the changing format of documentation (i.e. the impact of computers and other information technology) and whether this affects historians' ability to study Congress.
  - 3. Establish a central information office.
  - 4. Set aside a section of the galleries for scholars.
- B. Create learning materials for distribution to schools.
- 1. A package showing teachers how to put on a mock legislature.

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2. A "Congress in the Classroom" videotape series done independently or in cooperation with C-SPAN and its existing "C-SPAN in the Classroom" program.
  3. Computer software programs which teach basic facts about Congress and the legislative process.
- C. Create a Teacher's Legislative Institute for a one-week intense seminar on Congress.
- D. Create a Congressional Fellows program to expand the opportunities available for fellowships such as those run by the American Political Science Association and the American Association for the Advancement of Science.
- E. Support expansion of the U.S. Association of Former Members of Congress' "College Fellows Program" which sponsors former Members as visiting faculty to lecture for a week on Congress.



## INFORMATION RESOURCES AND TECHNOLOGY IN CONGRESS

The United States Congress is the pre-eminent legislative institution in the world. Its Members must address a range of issues of significant breadth and complexity. In order to perform its legislative responsibilities, Congress needs to take advantage of all the support capabilities available. However, Congress is an institution that has not kept pace with the developments in technology widely used in society. The House and Senate spend more than \$150 million per year<sup>1</sup> on information and technology resources, yet critical information is often not readily available to the Members. There is little coordination between the entities that provide technological support to the Congress. Members require modern technological support to deal with the scope and variety of information on a huge span of issues. It is not being provided.

Members of Congress are flooded with information -- bills, conference reports, cost estimates, and analysis papers -- that are delivered daily to most congressional offices. The legislative function would be enhanced if this type of information were presented to Members in an organized and readily accessible format. In hearings before this Joint Committee on the Organization of Congress, Members from both chambers complained that there are numerous occasions when the text of bills, reports, amendments, and conference reports are not available for Members to study prior to voting on a measure.

## I. IMPROVING MEMBER ACCESS TO LEGISLATIVE INFORMATION

- Monitors of the floor should be available in committee chambers/meeting rooms, cloakrooms, key hallways and subway portals to facilitate tracking of floor action.
- Encourage the use of verbatim transcripts of hearings in order to shorten the period of time it takes to edit and print hearings.
- The House should develop a cable channel, or party specific channels similar to the Senate's, which would provide Members with written summaries of the item being considered on the Floor. This would help alleviate some of the frustration Members feel when they are called to the floor to vote on an unfamiliar piece of legislation.

## II. REDUCING SCHEDULING CONFLICTS

- Modernize the current computerized scheduling system currently used in the House.
- Require certain meeting days for certain types of committees, or encourage committees to meet regularly on certain days.
- Use mornings for committees with Floor business beginning no earlier than noon.
- Require more advance notice for hearings and meetings.

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<sup>1</sup> Opportunities for the Use of Information Resources and Advanced Technologies in Congress. A study for the Joint Committee on the Organization of Congress, October 1993, page 17.

- Utilize alternative meeting formats such as video briefs, documentaries and video teleconferencing in lieu of traditional hearing formats.

### III. JOINT COMMITTEE ON INFORMATION RESOURCES

- Establish a Joint Committee on Information Management (JCIM) to coordinate information management for congress, to establish standards and applications policies for the Congress and its support agencies for information technologies, including telecommunications, electronic files and indexing, publishing, and information dissemination within Congress and to the public. The jurisdictions of the Joint Committee on Printing and the Joint Committee on the Library would be folded into the JCIM except for oversight of the Botanical Gardens which devolves to House Administration and Senate Rules. It would have the following duties:
  - Information Dissemination to the public, through Depository Libraries, and through electronic, printed, and other means.
  - The JCIM will establish and enforce standards on the legislative branch for the dissemination and retrieval of legislative information.
  - The JCIM should work to reduce the cost of printing legislative documents.
  - The JCIM should have oversight of telecommunications policy for the legislative branch. This is currently housed in the Architect's office in an effort to centralize this function for the legislative branch.
  - The JCIM will have oversight of the House Information System, the Senate Computer Center, and the computer centers that exist in the support agencies in order to coordinate information dissemination and to identify and eliminate unnecessary duplication of effort and expense.
  - The JCIM should study and recommend the best methods for enabling congressional offices, committees, support entities and support agencies to perform Congress's most important legislative and representational functions.
  - Insure the collaborative development (with HIS, SCC, & the support agencies) of a single integrated method for retrieving information from all congressional sources. This system should be made available to the entire legislative branch by the beginning of the 105th Congress. In the future, all or part of this system could be made available to Depository Libraries and the public through the Internet.

- The following information should be on-line in this system: status, summaries, and the full text of bills, amendments, and reports, AP newswire, Congressional Record, Federal Register, GAO reports, CRS Reports and Issue Briefs, CBO cost analyses, OTA reports, the Code of Federal Regulations, the annotated CFR, and all other files currently available on Senate LEGIS and House MIN systems.
- This system should be accessible to all congressional staff who use IBM compatible & Macintosh pc's.
- Features should be integrated so that a variety of bill information such as cost estimates, analysis, and bill history is available through a single interface.
- Users should be able to print these documents in a variety of wordprocessing systems and should be able to import this information into their own documents.
- Macintosh users should have the same printing and word processing capabilities as IBM compatible PC users.
- District offices should have access to this information through a low cost connection such as the Internet.
- This system could come on-line in modules with the most important information being Legis, MIN wires, the Record, the Register, and SCORPIO databases.

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## Congress of the United States

JOINT COMMITTEE ON  
 THE ORGANIZATION OF CONGRESS  
 ROOM 175D FORD HOUSE OFFICE BUILDING

Washington, DC 20515-0775

May 5, 1993

TO : Joint Committee Members and Staff  
 FROM : Walter J. Oleszek  
 SUBJECT : Some "Lessons" of Past Reorganization Efforts

The objective of this memorandum is to identify several "lessons" from past reorganization efforts that might inform our own work today. The 1945 and 1965 Joint Committees will be examined in greater detail than the two principal chamber efforts to reorganize the committee system (the 1973-74 House Select Committee on Committees or Bolling Committee and the 1976-77 Senate Select Committees on Committees or Stevenson Committee). The two earlier joint committees more closely parallel today's Joint Committee. Together, the four previous reorganization efforts are among the most significant of the past half-century.

## THE 1945 JOINT COMMITTEE

CREATION.

On the eve of World War II, many leaders inside and outside Congress expressed concern about the condition of the legislative branch. They had witnessed the fall of parliamentary systems in Europe and an expansion in the authority of the executive branch since the New Deal. The press and popular journals as well as radio debates, civic discussions, and reports by professional groups provoked widespread public interest in congressional reorganization. Members in both chambers, such as Reps. Jerry Voorhis, D-Calif. and Everett McKinley Dirksen, R-Ill., and Senators Claude Pepper, D-Fla. and Robert LaFollette, P-Wis., recommended that Congress revamp its organization and operations. Academics, led by the Committee on Congress of the American Political Science Association, prepared reports on ways to improve Congress and mobilized scholarly and public support for congressional reform. In short, there was widespread interest in and out of Congress for legislative reorganization.

THE 1946 LRA.

The Legislative Reorganization Act of 1946 addressed a variety of topics (lobby registration, restrictions on private bills, the adjournment of Congress each year by the end of July, etc.) but three were fundamental: modernization of the committee system, the provision of permanent professional and clerical staff for House and Senate standing committees, and the establishment of a legislative budget. According to Rep. A. S. "Mike" Monroney, D-Okla., the vice chairman of the 1945 Joint Committee, the "keystone of the reorganization of Congress was the reorganization of the committees." Modernization of the committee system was largely a success. The number of standing committees was reduced in each chamber and jurisdictions first got codified by this Act. (Perhaps unexpectedly, the reduction in the number of standing committees soon spawned the growth of subcommittees.) The staffing gains augmented the analytical capabilities of Congress, but the legislative budget proposal was a failure. "The hostility of the leaders of the appropriations committees to the idea of a legislative budget," wrote Monroney, "has been so intense that it is difficult to achieve any sort of enthusiastic cooperation on this important provision."

**PASSAGE OF THE 1946 ACT: SOME LESSONS****1. Restricted Charter.**

The mandate of the 1945 Joint Committee was broad, but it was prohibited by its authorizing resolution from making "any recommendations with respect to the rules, parliamentary procedure, practices, and/or precedents of either House, or the consideration of any matter on the floor of either House." However, the Committee was able to make recommendations involving the committee system. The restricted charter softened opposition to the Committee's creation but meant that the panel could not recommend changes on matters that the legislative "power structure" wanted left untouched (the filibuster, seniority, etc.).

**2. Mood of the Time.**

A period of national transition characterized this era. World War II was winding down, the atomic age was dawning, and a new President was at the helm. The times, in short, encouraged and supported efforts to change Congress's old ways of doing business. The committee system provides a good example of this sentiment.

Significant reductions were made in the number of House standing committees (48 to 19) and Senate standing committees (33 to 15). There was little dissension to this rather significant downsizing of committees, because Members in both chambers



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recognized that many committees had outlived their usefulness. The Senate Chairman of the Mines and Mining Committee, for example, referred to his own panel as "a joke." It was merged with the new Interior and Insular Affairs Committee (now Energy and Natural Resources). The thrust of the 1946 Act was to consolidate generally minor committees rather than shift specific jurisdictional topics from one committee to another.

### 3. Election of a New Congress.

The House and Senate which passed the Legislative Reorganization Act of 1946 was controlled by the Democrats. The November 1946 elections, however, put Republicans in control of both houses. They were now in charge of implementing the 1946 Act. This development, combined with the defeat of many incumbents, inhibited backsliding on committee reorganization. For their part, Republicans had little interest in undoing the Act because, as one scholar noted, they were able to "redistribute powerful committee posts without seriously impairing the standing of any Republican who had gained a powerful position before the reorganization."

### 4. Accommodate the Party Leadership.

In the Senate, Majority Leader Alben Barkley supported congressional self-improvement but appeared not to assert strong initiative on its behalf. He offered amendments in the budget area which strengthened the President's role in the process. He also encouraged Senators to "get some information about the provisions" of the proposed 1946 LRA "as we go along" or the Senate "may be voting for something it does not understand" (CR, June 7, 1945, p. 6443).

In the House, Speaker Sam Rayburn (and Majority Leader John McCormack and Minority Leader Joe Martin) opposed certain features of the Act, especially party policy committees, a legislative-executive council, and encouragement of joint hearings. The Senate-passed Act was not scheduled for nearly two months until the House floor managers (Monroney and Dirksen) agreed to drop these provisions. Moreover, Speaker Rayburn took the unusual step of addressing the Committee of the Whole just before it resolved back into the House. Rayburn opposed an amendment adopted in the Committee of the Whole to establish a monthly committee "docket day" (Members whose bills had received no action in committee could appear before that panel and explain the bill). The House went along with Rayburn's suggestion. Party leadership support for reorganization, in short, appeared lukewarm at best. Credit for the measure's enactment rests largely with the House and Senate floor managers.

#### 5. Coordinating House-Senate Action: Who Goes First?

Joint committee leaders agreed that the Senate should act first on the proposed 1946 LRA because it would take longer for passage in that body. To avoid having the legislation sent to several hostile panels, Senator LaFollette and his Joint Committee colleagues introduced a resolution, which the Senate adopted, that established a special committee on reorganization on which they all sat. (The Joint Committee had recommended against use of select or special committees. Ironically, one had to be created, chaired by LaFollette, to facilitate the Act's passage.) S. 2177, which embodied the proposals of the Joint Committee, was referred to the Special Committee. That panel reported an amended version of the bill at the end of May 1946, and the bill was called up in the Senate on June 5, 1946. Five days later the measure passed the Senate, 49 to 16; nine of the sixteen Senators who opposed the legislation were chairmen of committees slated for extinction.

When the bill was sent to the House, as noted above, it was held at the desk by Speaker Rayburn before referral to committee for nearly two months until the aforementioned deletions (party policy committees, for example) were agreed to. Then on July 25, 1946, the House took up and passed (229 to 61) the bill with a number of amendments. By now many Members were leaving Washington in anticipation of sine die adjournment and the need to campaign for reelection. The Senate faced a difficult decision: go to conference on the legislation and confront the possibility of a filibuster on the conference report or agree to the weaker House version of the bill. The Senate agreed to LaFollette's motion to accept the House's amendments to S. 2177. President Truman signed the LRA into law on August 2, 1946.

#### 6. Outreach.

The Joint Committee worked to generate public support for congressional reorganization. Many civic groups, radio stations, and magazines received arguments for and reports on reorganization from the Joint Committee. The League of Women Voters made congressional reorganization a top priority of the group. Life magazine (June 1945) ran a major cover story on legislative reorganization ("U.S. Congress: It Faces Great New Tasks With Outworn Tools.") All House and Senate members received from the Joint Committee articles and bills on reform and individual members of the Joint Committee regularly "talked up" reform with their colleagues.

#### 7. "Sweeteners."

Sometimes it is easier to swallow hard choices if there are "sweeteners." To be sure, these so-called sweeteners may represent genuine and needed change. In the case of the 1946 LRA, Members' salaries were raised from \$10,000 to \$12,500; in addition, the Act

included a \$2,500 tax free expense allowance and granted Members the privilege of enrolling in the federal retirement system. Other provisions of the Act also aided lawmakers, such as lightening their workload (e.g., delegating private claims to the Court of Claims) and providing professional and clerical staff to all standing committees.

## THE 1965 JOINT COMMITTEE

### CREATION.

In the mid-1950s and particularly in the 1960s, there were again calls for congressional reform among journalists, scholars, and commentators. Despite the improvements made by the 1946 Act, advocates of legislative reorganization stressed that the job was not done. Congress faced new conditions: the addition of two new states, a population increased by millions, the dawning of the space age and the communications and technology revolution, and at least a doubling in the daily workload of lawmakers.

Inside and outside Congress there was large support for legislative reorganization. Inside, Members such as Rep. Richard Bolling, D-Mo., and Sen. Joseph Clark, D-Pa., were critical of Congress's organization and operations. Bolling, for instance, wrote House Out of Order (1964) and Clark penned Congress: The Sapless Branch (1963). Outside, the influx of new, change-oriented lawmakers in the aftermath of the 1958 and 1964 elections helped furnish votes for a new joint reorganization panel. Scholars and commentators, too, were critical of the legislative branch. NBC even televised an hour-long special in prime time entitled "Congress Needs Help." In short, conditions inside and outside Congress were once again right for a comprehensive review of the legislative branch.

In 1964 Senator Mike Monroney, D-Okla., announced that he planned to introduce legislation to establish a successor to the 1945 Joint Committee. Companion legislation to establish a Joint Committee was introduced in January 1965; the House sponsor was Rep. Ray J. Madden, D-Ind., a member of the Rules Committee. Senator Monroney told his Senate colleagues that the intent of his proposal is "to seek solutions to the problems of Congress on which there is consensus that something should be done." By mid-March 1965 the second Joint Committee was established.

### THE 1970 LRA.

Five and a half years in the making, the 1970 Act focused on several broad reorganization areas:

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- committee organization: banning general proxies and requiring committees to adopt written rules, e.g.;
- anti-secrecy: recorded teller votes in the House, advance public notice of hearings, and broadcasting of committee hearings, e.g.;
- majority and minority rights: granting each committee's minority party one-third of the investigative funds and allowing the committee minority party one day in which to call witnesses of their choosing at a hearing, e.g.;
- analytical support for Congress: authorizing professional training for committee staff and assigning policy analysis responsibilities to CRS, e.g.;
- fiscal controls: directing House Appropriations to hold annual hearings on the President's budget, e.g.;
- Senate committees: establishing a Veterans Committee and limiting Senators' assignments to two major and one minor committee, e.g.; and
- bicameral relations: establishing approximate committee staff salary parity between the chambers and outlining a conference report procedure in the House for dealing with nongermane Senate matter.

To be sure, the Act dealt with a variety of other topics, such as the installation of electronic voting in the House and requiring House and Senate committees to prepare biennial oversight reports. As Senator Monroney said about these changes: "A lot of little reforms add up to a big reform. If we are going to get an up-to-date, modern Congress, it will be a mosaic you build from lots of little improvements."

#### PASSAGE OF THE 1970 ACT: SOME LESSONS

##### 1. Limited Charter.

Like its predecessor, the 1965 Joint Committee was prohibited from recommending any changes in House or Senate rules and precedents. (The panel, however, did take testimony on these matters.) Still, the restrictions placed on the Joint Committee in dealing with issues that affected each chamber's power structure (seniority and filibusters, for example) minimized controversy, promoted a moderate, centrist approach to reorganization, and facilitated passage of the legislation. In the end, after ten months of negotiations following the end of its hearings, the Joint Committee unanimously reported 66 recommendations for change.



## 2. Sheer Persistence.

Congressional reform, as the saying goes, is not for the faint-hearted or short-winded. From the time the Joint Committee was created until passage of the 1970 LRA, five and a half years had elapsed. Even some of the bill's most ardent champions, such as Senator Monroney and Rep. Thomas Curtis, R-Mo., had left the Congress by the time the legislation passed. In short, it takes determination, hard work, and many other qualities to overcome the "constituency for the status quo" and to enact procedural and organizational changes. A core group of Democratic and Republican lawmakers (for example, Representatives Thomas Rees, D-Calif., and William Steiger, R-Wis.) worked cooperatively and diligently to push reform. They deserve significant credit for passage of the legislation.

## 3. Overcome Lukewarm Leadership Support.

When the Joint Committee issued its final report in July 1966, the Senate established a Special Committee on the Organization of Congress (composed of the Senate members of the Joint Committee) to transform the recommendations into legislation. No action was taken on that legislation before the 89th Congress adjourned. However, Senator Monroney introduced the 1967 LRA when the new Congress convened, and the Senate enacted it in March. The Senate leadership generally supported the thrust of the changes.

When the Senate-passed bill was sent to the House, it quickly encountered the lukewarm support of Speaker McCormack and Democratic seniority leaders. (Even to create the joint committee, change-oriented Democrats, whose ranks were increased by the November 1964 landslide election, had to demand that the Speaker support the panel's establishment.) The Speaker referred the bill to the Rules Committee and there it languished until the 90th Congress adjourned in October 1968. Various groups of Democrats and Republicans tried to extract the bill from the Rules Committee. For example, Rep. Donald Rumsfeld, R-Ill., and his "Rumsfeld's Raiders" kept the House in continuous session for 32 hours in an attempt to force scheduling of the reorganization measure. His effort did not succeed.

Things had changed by the time the new Congress began in 1969. Republican Nixon was in the White House, members of the DSG were actively striving to put the House in order, nearly half the House had sponsored or co-sponsored reform bills, and many House Democrats were intensely frustrated with the way their chamber operated. Rep. Morris Udall, D-Ariz., unsuccessfully challenged McCormack for the speakership but that effort sent an unmistakable message: it was time for legislative reorganization. The Rules Committee reported a legislative reorganization bill, which was backed by many Democratic and GOP reform leaders. It passed the



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House in September 1970. The next month, following Senate action, the 1970 LRA was signed into law.

#### 4. Timing the Action.

The Joint Committee, as noted earlier, issued its final recommendations in July 1966. Monroney and Madden soon introduced the Legislative Reorganization Act of 1966, which embodied the recommendations of the Joint Committee. However, time ran out before either chamber could take up the legislation. In late September 1966, Senate Majority Leader Mike Mansfield stated that the heavy legislative workload prevented action on the reform bill, but that it would be one of the first orders of business in January 1967. Election year pressures also preoccupied many House and Senate members.

#### 5. Bicameral Coordination.

When the 90th Congress began, the first major measure taken up in the Senate was the Legislative Reorganization Act of 1967. Debate on the bill took 18 days, extending from January 25 to March 7 before the Senate passed it by a 75 to 9 vote. The large vote in favor of the measure indicated that its prospects seemed bright. When the Senate bill reached the House it was referred to the Rules Committee. That Committee held one hearing on the measure and that was the end of formal action in the 90th Congress. As a result, when the 91st Congress began an informal, bicameral understanding was reached: the House would go first on legislative reorganization to see if the votes were there to pass the bill. The House debated the 1970 LRA from July through September before it passed 326 to 19. Although time was running out when the House-passed bill reached the other body, the Senate acted with dispatch and after two days of debate passed the amended bill by a 59 to 5 vote. The House accepted the Senate's amendments, and President Nixon signed the measure into law.

#### 6. Outreach.

Although press and media coverage of the reorganization effort was not extensive, one specific floor amendment to the 1970 LRA generated broad outside support. That amendment, which was agreed to, provided for recorded teller votes in the Committee of the Whole. Sold as an antisecrecy and "sunshine" provision, a bipartisan group of House members sent a letter urging the change to 2,000 editorial page writers across the nation. Leaders of the DSG launched a campaign to attract public attention to the issue. Other groups alerted newspaper editors, radio and television stations, and national political columnists about the issue. Democratic and Republican lawmakers mobilized outside interests to lobby on behalf of the antisecrecy amendment.

## 7. "Sweeteners."

Senator Monroney often said that if lawmakers were expected to accept "spinach" provisions they needed some "ice cream" features as well to make reorganization palatable. Among the provisions that sweetened the bill were additional professional and clerical staff for committees, including the minority; the formalization of an August recess in nonelection years; authority for all standing committees to hire temporary consultants and consultative organizations; and the minority party on each House committee was granted one-third of the panel's investigative funds.

## 8. Implementation: Slips Between the Cup and the Lip.

The 1970 LRA, as noted, granted the minority party one-third of a standing committee's investigative funds. This provision, however, angered many Democrats. As a result, at the start of the new Congress in January 1971, the House Democratic Caucus repealed the provision. History repeated itself in January 1975 when a similar provision, agreed to by the House in October 1974 as part of an amended Bolling committee reorganization package, was dropped by the House Democratic Caucus. Senate reorganization proposals to limit the number of assignments per Senator have also encountered implementation problems. In brief, there is sometimes a gap between enacting reforms and securing their effective implementation.

## HOUSE AND SENATE COMMITTEE REORGANIZATION

During the 1970s, the House and Senate separately embarked on a major effort to reorganize their respective committee systems. Each was driven by a variety of internal (lawmaker frustrations with the status quo, e.g.) and external (the rise of new and complex issues, e.g.) forces and each addressed issues that are common to virtually all attempts to modernize committee structures. These include: jurisdictional overlaps and fragmentation, imbalances in committee workload, the burdens of too many committee assignments, inadequacies in committee oversight, and committee consolidation.

Similarities between the two end, however, when we ask which was the most successful. By most accounts, the Bolling Committee achieved far fewer of its objectives than did the Stevenson Committee. Neither panel, however, was a complete success nor a complete failure. Many of Bolling's procedural changes, minus the major jurisdictional proposals, were included in the package that the House adopted. Some of Stevenson's proposals were watered down before they reached the Senate floor.

Although the two chambers differ significantly in their organization, history, and method of operation, the two committee realignment efforts reveal some common lessons. They include:

1. Role of Party Leaders.

In the House, Speaker Albert and Minority Leader Ford strongly backed creation of the Bolling Committee. Because of Bolling's recognized stature, he significantly influenced who was appointed to the panel from both sides of the aisle. However, when Bolling produced a plan that was especially divisive for Democrats, Speaker Albert exhibited lukewarm support for reorganization and even contemplated pulling the whole committee reform package off the floor. In the Senate, the Stevenson Committee enjoyed continued support from the party leadership, especially Senator Robert C. Byrd. As Majority Leader, Senator Byrd participated actively in successfully negotiating compromises and accommodations with Members and committees affected by the Stevenson reorganization plan.

2. Preview of the Reorganization Plans.

After extensive hearings throughout 1973, the Bolling Committee issued a working draft of its reorganization plan on December 7. That date, on hindsight, turned out to be significant, for the plan almost immediately bombed with the affected interests. Committees slated for extinction immediately mobilized their allies inside and outside Congress against the reorganization endeavor, and the Committee never fully recovered from that assault. In the Senate, the Stevenson Committee developed three reorganization plans: modification of the existing 31-committees, including select and joint committees; a 12-committee functional plan; and a system of five overarching committees. The publication of the three plans captured the attention of Senators and served as a basis of discussion at several hearings. Senators, in short, perceived that they had an opportunity to have some input in committee reorganization by, for instance, suggesting various adjustments. By contrast, many Representatives perceived that Bolling had presented them with a fait accompli.

3. Winners and Losers.

In general, those who stand to lose authority or influence because of reorganization are vocal critics of the effort. Members, it seems, quickly determine how various reorganization provisions affect their place in the legislative process. The "gainers" under reorganization tend to be reticent about speaking out in favor of reorganization, perhaps because it appears self-serving to their colleagues. Relatedly, history reveals that legislative reform can be accepted by Members if a persuasive case is made for the change.

#### 4. A Second Look.

The Bolling Committee's authorizing resolution granted it "legislative authority"--the right to report legislation directly to the floor. However, the Democratic Caucus rejected Bolling's jurisdictional plan and devised another one instead (basically the status quo). The Stevenson Committee had a "second look" requirement as part of its authorizing resolution. Hence, adjustments were made to Stevenson's committee reorganization plan by the Senate Rules and Administration Committee (for example, five committees slated for consolidation were restored: Veterans, Small Business, Ethics, Joint Economic, and Joint Taxation). Rules Chairman Howard Cannon invited Stevenson to participate during the panel's markup sessions, which facilitated the working out of compromises. In addition, both Cannon and Stevenson served as floor managers of the legislation (S. Res. 4). By contrast, the House Democratic Caucus's party panel, which reviewed the Bolling plan, met in secret and excluded Bolling from its deliberative processes.

#### 5. Sharp and Diverse Opposition.

Jurisdictional realignment, either incremental or comprehensive, typically arouses sharp and diverse opposition. (Recall, however, that the 1946 LRA fundamentally revamped the House and Senate committee system; that change occurred with limited opposition.) The opposition comes in variable forms: from lawmakers adversely affected by the reorganization plan, from interest groups, from executive agencies, and from congressional staff. A "reverse lobbying" process may occur with Members and legislative staff lobbying the lobbyists to oppose the changes. An important consideration, then, is how to build support to counter opponents of change.

### SUMMARY OBSERVATIONS

Virtually every legislative reorganization of the past half century has addressed similar issues: scheduling, committee overlap and fragmentation, floor procedure, staffing, ethics, the budget process, Member assignments, and so on. Two reasons at least stand out for this focus. First, these topics are fundamental to Congress's organization and operation. Second, they require periodic reexamination in light of new circumstances, challenges, and opportunities. Important "lessons" can be learned from revisiting the actions of past reorganization efforts, such as legislative changes can produce unpredictable results. Worth noting, too, may be another observation. Past lessons may not always fit, or fit in the same way, contemporary circumstances.



### The Public Reacts to the Joint Committee

The C-SPAN airing of the hearings of the Joint Committee on the Organization of Congress sparked hundreds of letters from citizens, each expressing his or her views on the Joint Committee's discussions and activities.

While the letter writers represent a range of political and ideological views, many common sentiments have emerged. The following are the most often repeated views, in the order of frequency mentioned and accompanied by selected quotes from the letters. Although some of the writers voiced support for issues which are not being addressed by the Joint Committee or that are being reviewed as part of other reform efforts (such as campaign finance reform), all the responses that could be categorized are included to give a complete representation of the letters.

**1) Joint Committee reform effort is supported.** From all parts of the country, letter writers expressed their support for the Joint Committee's mandate to reform Congress. Many times, however, this support was voiced concurrently with skepticism of the Committee's ability to enact real change, and even of the sincerity of the Committee's efforts. Americans want the Joint Committee to succeed but some seem unwilling to buy the package just yet.

#### Letter Excerpts:

\*\*\* "I believe your committee's work is the most important thing to come out of this session." \*\*\*

\*\*\* "Congratulations to each of you for having become a part of the most sensible committee coming out of Congress in many, many years." \*\*\*

\*\*\* "You can be remembered as the ones who stood up and made the crucial and tough decisions which kept this nation the best place on earth to live. Please— make the right decisions!" \*\*\*

\*\*\* "I practically stood and cheered in my living room when John Kasich urged you and your Committee to 'BE BOLD in what you do'." \*\*\*

**2) Cut congressional spending by cutting Members' perks.** A great number of writers want to see spending cuts first before they are asked to sacrifice any more through taxes. Their first target is the perquisites they perceive Members have. Many of these perks have already been eliminated, but some respondents with this concern did not seem to be aware of the changes. They called for elimination of: free or subsidized meals, hair cuts, gym use, and transportation; no check-cashing charges; high retirement pensions; retention of "left-over" campaign funds; automatic raises; and unnecessary/ non-business-related trips.

#### Letter Excerpts:

\*\*\* "The theme of all future Congresses should be 'Pay as you go.'" \*\*\*

\*\*\* "How can you justify the perks you give yourselves when in the same breath you expect the American people to make greater sacrifices? How is that acting as a public servant?" \*\*\*



\*\*\* "How can we trust Congress when Members vote themselves pay raises in the middle of the night, take unnecessary trips at taxpayers' expense, and retain 'left-over' campaign funds for personal use?" \*\*\*

3) **Create a committee to address children, youth and family issues.** In response to a magazine article about the elimination of the House Select Committee on Children, Youth and Families, 50 citizens wrote to protest. The letter writers wanted to know why the committee had not been reauthorized and said children, youth and family issues should be addressed by a specific committee.

Letter Excerpts:

\*\*\* "As a working mother and child advocate, I am deeply concerned about the loss of the only committee designated to target critical issues affecting families, and for shaping federal policy on child care and education." \*\*\*

\*\*\* "I can not believe you abolished the only voice our children and families have in this country."

\*\*\* "If bankers, farmers and mailmen have been given a voice, let's not forget our children, 20% or more who live in poverty." \*\*\*

4) **Ethics should be a priority.** Partially attributable to the Joint Committee discussion with Ross Perot aired on C-Span, many writers commented on the ethical or non-ethical behavior of Members of Congress. These writers think congressional "scandals" have undermined Members' ability to both serve and lead the people. They see ethics as important and related to all aspects of the functions which Members must perform on behalf of the public. Respondents want Senators and Representatives to be held accountable for any and all unethical behavior which is exposed, just as the average citizen would be.

Letter Excerpts:

\*\*\* "We are reaching to you, as our representatives, to get this country back to the basics, and ETHICS is the first priority." \*\*\*

\*\*\* "We elect people who appear to be honest, hard-working, and dedicated, yet, after being elected, they become totally self-serving. That, sir, is unethical-- not illegal, just unethical." \*\*\*

\*\*\* "High ethics and responsibility is what the people of the U.S. are looking for in Congress." \*\*\*

5) **Pass the mandatory balanced budget amendment.** The current budget deficit has many writers calling for mandatory measures to balance the budget.

Letter Excerpts:

\*\*\* "Congress is ultimately responsible for the health of this nation's economic sector." \*\*\*

\*\*\* "Always remember it is the people's hard earned tax money that runs the government; spend that money as if it were your own." \*\*\*

6) **Give the President Line Item Veto power.** The Presidential Line Item Veto receives unanimous support from all those who discussed it. Its opponents are either non-existent or silent.

\*\*\* "Get the Line Item Veto passed!" \*\*\*

7) **Reform committee structure.** The number (266) and size of committees and subcommittees seems excessive to most respondents. They seem perplexed by first, why so many are necessary, and second, why there is enough money to pay for a large number of staff in the face of a huge debt and deficit and lack of money for other crucial needs like education, health care, and infrastructure. Some also want Members to limit the number of committees they serve on; many feel this is important to disseminate power and to enable Members to participate fully in committee responsibilities. Bipartisan representation, instead of majority supremacy of the committees, is also frequently requested. Some writers call for one-to-one representation, whereas most seem to want a more equitable majority-minority committee ratio, without specifying what a more equitable ratio would be.

Letter Excerpts:

\*\*\* "There are too many committees, which creates confusion, and makes it impossible for members to pay enough attention to committee business." \*\*\*

\*\*\* "Give every committee an expiration date like cottage cheese." \*\*\*

8) **Members should be held to all laws they create.** Respondents want Congress to take a serious and honest look at what they perceive as a double standard and either eliminate it in many cases or justify it in others.

Letter Excerpts:

\*\*\* "...the public recognizes the practice (of excluding Members from laws) as 'except for me' and it therefore causes unnecessary contempt for Congress." \*\*\*

\*\*\* "They (Members) are public servants, not privileged nobility." \*\*\*

\*\*\* "The Congress dishonors the American people when it creates a double standard of laws, one set which excludes themselves." \*\*\*

**9) Curb lobbying practices and eliminate PACs.** Many letter writers feel that as average American taxpayers, their opinions, needs and concerns can't compete with the money, trips, and enticements provided by lobbyists and PACs. Many letter writers said they feel "sold out" to money and power, advantages they don't have to attract the attention of the people they elected to represent them. What they want is a "level playing field" in which they can bend a Member's ear as easily as a lobbyist can. The suggestions for creating the level field range from severe restrictions on PACs to their outright elimination, as well as severe restrictions on lobbyists, contributions to Members and candidates.

Letter Excerpts:

\*\*\* "People we sent to represent us are ignoring us and only listening to those who can offer them the luxuries to which they have become accustomed." \*\*\*

\*\*\* "As far as ALL lobbyists are concerned, they should approach Congress with ideas and nothing more." \*\*\*

\*\*\* "Most members cannot really speak their consciences, or lead and educate the electorate when they are so beholden to powerful interests." \*\*\*

\*\*\* "We want our Government back!" \*\*\*

**10) Impose Mandatory Term Limits.** Many writers felt that term limits would make legislators more accountable to their constituents and would keep Members more in touch with the public.

Letter Excerpts:

\*\*\* "The only alternative is term limits. The time has come to step up to the line and do what is in the best interests of the country- don't let it pass you by." \*\*\*

\*\*\* "Put in effect 8 years maximum to serve (for Representatives). The President only gets two terms. Why should the rest of you be in for life?" \*\*\*

\*\*\* "I think terms of Congressmen should be limited to 12 years as this would break the influence of lobby and pressure groups to influence them and they would be more apt to do what is right and just for the citizens of this great nation." \*\*\*

**11) Disallow Non-germane Amendments to Bills.** A number of letter writers expressed frustration at Members' practice of adding unrelated items to bills, especially what writers refer to as "pork barrel projects." Several writers offered that no item should be passed if it cannot stand alone.

Letter Excerpts:

\*\*\* "Pork barrel projects are at the root of our deficit problem. Unrelated amendments should not be hidden in and allowed to be added to bills." \*\*\*

\*\*\* "Any item that cannot stand on its own on the floor should not be passed. All amendments that are not germane to a bill should not be allowed." \*\*\*

12) Other items which have received support are, in order of strength of support:

- a) "Open Up" Congress to the Public
- b) Limit Number of Committees Members Serve on and Chair
- c) Implement the Recommendations of the Grace Commission Report;
- d) Reform the Rules Committee;
- e) Maintain the Veterans' Affairs Committee.

If the letters are any indication, the American people are waiting and watching the Joint Committee with a great deal of hope in their work as well as an appreciation of the difficulty of their task. A midwestern gentlemen's encouragement echoes that of scores of others: "Thank you, thank you, thank you for volunteering to serve on a committee with such a monumental task!!! I'm sure that by now everyone serving must have Excedrin headache number umpteen."

Numerical Breakdown of Constituent Responses

<u>Topic</u>	<u># Letters</u>
1. Joint Committee Work Important/ Support Expressed	81
2. Cut Spending (especially perks)	54
3. Create a committee to address children, youth and families	50
4. Importance of Ethics	45
5. Balanced Budget Amendment	42
6. Presidential Line Item Veto	39
7. Cut Number of Committees and Subcommittees	37
8. Congress Held to All Laws	36
9. Severe Restrictions on Lobbyists (no \$)	32
9. Eliminate PACs	32
10. Term Limits	29
11. No Non-germane Amendments	18
12. "Open Up" Congress to Public	14
13. Limit Number Committees Members Serve on and Chair	11
14. Grace Commission Report	8
15. Reform Rules Committee	5
16. Keep V.A. Committee	5

**Total # of Letters 980**

(The sum of the column on the right does not equal the total number of letters received because some letters mentioned more than one issue so were tallied more than once and other letters did not fit any of the categories listed.)

\* Responses were received from 36 states and the District of Columbia



Op-Ed Responses

In addition to general responses elicited through C-SPAN, the Co-chairmen and Vice-chairmen of the Committee sent an op-ed (attached) to all 1,600 U.S. daily newspapers to encourage the papers' readers to send their input and opinions to the Joint Committee. While it is impossible to determine all the newspapers which carried the op-ed or who wrote their own editorials about the Joint Committee, a list of those which generated letters is attached.

The Op-Ed responses mirrored those put forth by the general constituent correspondence of the previous pages with the absence of the two issues of "Opening up" Congress and the V.A. Committee. Writers' various views are best expressed by the constituents themselves in the quotes that follow.

Letter Excerpts:

\*\*\* "...the Government bears our name and represents us collectively to the rest of the world. Our image is important not only to our prosperity but also can impact our national security." \*\*\*

\*\*\* "We all hope that your Committee was not formed as a political expedient, but is a truly honest search for solutions!" \*\*\*

\*\*\* "The way you get rid of committees that never should have been created is the same way they were created: Congress voted the committees into existence; Congress votes the committees out of existence. \*\*\*

\*\*\* "Who wrote the legislation that created a four trillion dollar national debt? The Constitution states that the Congress has this responsibility, obligation, and blame."

\*\*\* "The so-called check bouncing scandal had an enormous negative public relations impact for the Congress, not because of the magnitude of the sums involved, but because it was perceived as an arrogant refusal to live like the rest of us." \*\*\*

\*\*\* "You must refuse the role of rich uncle. You must refuse the role of Santa Claus. you must refuse the role of tooth fairy. You must simplify." \*\*\*

\*\*\* "The very existence of the Committee is a statement of public dissatisfaction with the way Congress has conducted the people's business. The public is anxious for reform. It is vital that meaningful reform results from the Committee's efforts, not just rhetoric." \*\*\*

What differed somewhat from the general constituent responses was the rank ordering of importance, measured in number of times mentioned, that was assigned to each issue. (Compare p.6 and p.8) There were also some additional suggestions which surfaced from the Op-Ed letters which are listed below. (Each one was suggested by one individual unless otherwise indicated.)

- 1) Independent panel to investigate ethics violations (5 letters of support)
- 2) End franking privileges (3 letters of support)
- 3) Simplify legislation and regulations
- 4) Obey Balanced Budget Act of 1979

Numerical Breakdown of Op-Ed Responses

<u>Topic</u>	<u># Letters</u>
1. Term Limits	18
2. Cut Number of Committees and Subcommittees	16
3. Severe Restrictions on Lobbyists (no \$)	14
3. Congress Held to All Laws	14
4. Presidential Line Item Veto	13
5. Cut Spending, (especially perks)	10
6. Eliminate PACs	7
6. No Riders or Non-germane Amendments	7
7. Importance of Ethics	6
8. Balanced Budget Amendment	3
9. Joint Committee Work Important/ Support Expressed	2
10. Limit Number of Committees Members Serve on and Chair	1
10. Grace Commission Report	1
10. Reform Rules Committee	1

**Total # of Op-Ed Letters 135**

(The sum of the column on the right does not equal the total number of letters received because some letters mentioned more than one issue so were tallied more than once and other letters did not fit any of the categories listed.)

\*Responses were received from 28 states around the country.

Numerical Breakdown of all Responses Combined

<u>Topic</u>	<u># Letters</u>
1. Joint Committee Work Important/Support Expressed	83
2. Cut Spending (especially perks)	59
3. Cut Number of Committees and Subcommittees	53
4. Presidential Line Item Veto	52
5. Importance of Ethics	51
6. Congress Held to All Laws	50
6. Create a committee to address children, youth and families	50
7. Term Limits	47
8. Severe Restrictions on Lobbyists (no \$)	46
9. Balanced Budget Amendment	45
10. Eliminate PACs.	39
11. No Riders or Non-germane Amendments	25
12. "Open Up" Congress to Public	14
13. Limit Number of Committees Members Serve on and Chair	12
14. Grace Commission Report	9
15. Reform Rules Committee	6
16. Keep V.A. Committee	5

**Total # of Letters 1,065**

(The sum of the column on the right does not equal the total number of letters received because some letters mentioned more than one issue so were tallied more than once and other letters did not fit any of the categories listed.)

\* Responses were received from 44 states and the District of Columbia

OP-ED RESPONSES

TOWN	NEWSPAPER (when identifiable)	CIRCULATION
Andalusia, AL	The Andalusia Star News	4,300
Daphne, AL	The Mobile Register	59,000
Mobile, AL	The Mobile Register	59,000
Theodore, AL	The Mobile Register	59,000
Harrison, AR		
El Sobrante, CA		
Lancaster, CA		
Llano, CA	Antelope Valley Press	56,000
Marysville, CA	Appeal-Democrat	25,000
Napa, CA	The Napa Valley Register	20,000
Palmdale, CA	Antelope Valley Press	56,000
Richmond, CA	West County Times	33,000
San Carlos, CA		
San Mateo, CA	The Times	44,400
Vacaville, CA	The Reporter	20,000
Canon City, CO	Daily Record	8,500
Hartford, CT	The Hartford Courant	228,200
Manchester, CT	Journal Inquirer	46,000
Middletown, CT	The Middletown Press	18,500
Newton, CT		
Crystal River, FL	The Citrus County Chronicle	17,000
Inverness, FL	The Citrus County Chronicle	17,000
Mt. Pleasant, FL		
Pensacola, FL	Pensacola News Journal	60,000
Winter Haven, FL	The Winter Haven News Chief	11,200
Augusta, GA	The Augusta Chronicle	70,700
Evans, GA	The Augusta Chronicle	70,700
Groverton, GA	The Augusta Chronicle	70,700
Martinez, GA	The Augusta Chronicle	70,700
Waynesboro, GA	The Augusta Chronicle	70,700
Kaauai, HI		
Benton, IL	Benton Evening News	5,000
Carbondale, IL	Carbondale-Herrin-Murphysboro	30,000
Chicago, IL	Chicago Defender	28,000
Marion, IL	The Marion Daily Republican	5,000
Olmsted, IL		
Burton, KS	The Hutchinson News	38,000
Hiawatha, KS	Hiawatha Daily World	2,500
Larned, KS	The Tiller & Toiler	3,000
Manhattan, KS	The Hutchinson News	38,000
Ottawa, KS	The Herald	5,000
Williamsburg, KS	The Herald	5,000
Cumberland, MD	The Cumberland Times-News	31,600
Oakland, MD	The Cumberland Times-News	31,600
Albert Lea, MN	Albert Lea Tribune	9,500

Warrensburg, MO	The Daily Star Journal	5,000
Las Cruces, NM	Las Cruces Sun-News	19,000
Roswell, NM	Roswell Daily Record	14,500
Beavercreek, OH	Bevercreek News-Current	4,000
Duncan, OK	The Duncan Banner	10,000
Eugene, OR	Eugene Register Guard	74,500
Oakridge, OR	Eugene Register Guard	74,500
Roseburg, OR	The News-Review	21,000
Springfield, OR	Eugene Register Guard	74,500
Tenmile, OR		
Shrewsbury, PA	The York Dispatch	40,000
York, PA	The York Dispatch	40,000
Aiken, SC	Aiken Standard	17,000
Modoc, SC		
Bonham, TX	Favorite	3,000
Greenville, TX	Greenville Herald-Banner	11,026
Culpeper, VA	Star-Exponent	7,400
Port Angeles, WA	Port Angles Peninsulu Daily News	14,000
Sequim, WA	Port Angles Peninsulu Daily News	14,000
Oshkosh, WI	Oshkosh Northwestern	28,000
Omro, WI	Oshkosh Northeastern	28,000
Petersburg, WV		



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## Congress of the United States

JOINT COMMITTEE ON  
 THE ORGANIZATION OF CONGRESS  
 ROOM 175D FORD HOUSE OFFICE BUILDING  
 Washington, DC 20515-0775

May 28, 1993

Dear Editorial Page Editor:

During the past year, your editorial pages likely carried letters to the editor or editorials critical of how Congress has operated in recent years.

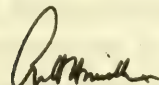
Congress listened to that criticism and created the Joint Committee on the Organization of Congress to review the institution and to make recommendations for reform.

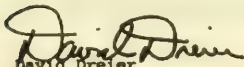
As co-chairmen and vice chairmen of the Joint Committee, we believe it is important to keep the public informed of and involved in our efforts.

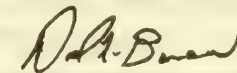
Therefore, we are asking daily newspapers to consider the enclosed piece for an op-ed or a letter to the editor. If you find the piece inappropriate to run in its entirety on your editorial page, please consider letting your readers know in your own way that we'd like to hear from them.

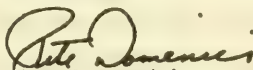
If you have any questions or would like more information about the Joint Committee, please contact Maureen Groppe in our committee office at 202-226-0650.

Sincerely,

  
 Lee Hamilton  
 Co-Chairman

  
 David Dreier  
 Vice-Chairman

  
 David L. Boren  
 Co-Chairman

  
 Pete V. Domenici  
 Vice-Chairman

## REFORM COMMITTEE SEEKS PUBLIC INPUT

by Sen. David L. Boren (D-OK) and Rep. Lee H. Hamilton (D-IN)  
Sen. Pete V. Domenici (R-NM) and Rep. David Dreier (R-CA)

A Member of Congress once remarked that asking Congress to modernize itself is like expecting a dentist to pull his own tooth.

"But," the Congressman added, "I believe (reform) could be done with little pain, compared to the advantages to be gained."

After that and many other calls for reform in the 1940's, Congress did modernize itself. Faced with public dissatisfaction about the effectiveness of the institution, with Members' own frustrations, and with the need to adapt Congress to a new world order following World War II, Congress created a Joint Committee on the Organization of Congress. After a year-long examination, the committee issued recommendations that resulted in the first comprehensive overhaul of congressional operations.

A half a century later, Congress is again realizing that doing nothing to address the problems with the institution is more painful than fixing them. Last year, Congress passed a resolution creating the 1992 Joint Committee on the Organization of Congress with the same mandate as the first Joint Committee: to "make a full and complete study of the organization and operation of Congress."

You don't need to be told about the average citizen's belief that Congress is not effective enough at tackling the issues and national problems that most affect them. You are also aware of the historic global changes of recent years to which Congress

must adjust.

And you should also know that like 50 years ago, Members of Congress are frustrated and are in the process of critiquing the institution. As co-chairmen and vice chairmen of the new Joint Committee on the Organization of Congress, we want you to know what the Committee is doing. We need to hear your comments or concerns about our agenda and other issues concerning Congress.

Polls last year recorded an all-time low, public approval rating for the institution. The goal of the Joint Committee, however, is not to manufacture a package of recommendations stamped "reform" which will be paraded before the public to get the ratings back up a few notches.

While Congress has always been criticized, the public is most satisfied not when Congress talks about reform, but when Congress is working well: when Members are carrying out their duties of oversight and responsible budgeting; when the institution is living up to its reputation as the greatest deliberative body in the world; and when Members are fulfilling their main role as legislators. The Joint Committee's goal is to make the institution function better so Members can do their jobs better. We are particularly concerned about the following:

OVERSIGHT AND RESPONSIBLE BUDGETING: Congress has perhaps been criticized most for the burgeoning federal budget deficit. The current budget and appropriations process is complex, confusing to both insiders and outsiders, and no one has been happy with the results in recent years. The Joint Committee is

reviewing how the budget and appropriations process might be reformed to induce long-term thinking, more accurate decision-making, fiscal discipline, and greater accountability.

**THE GREATEST DELIBERATIVE BODY:** Observers both inside and outside the institution regard Congress' debate about the use of force in the Persian Gulf as one of this institution's finest moments. Members spoke from the heart, ignored the polls, and debated what would be the best course for the country. Much less praiseworthy are the many times Members speak to empty chambers or the fact that the Senate spends a quarter of its floor time calling the roll.

The Founding Fathers believed that debate and proper deliberation not only permits all legitimate views to be heard, but also leads to the best policies. The Joint Committee is examining how to improve the institution's ability to educate the country about the major issues, then listen to the views of all Americans and build a consensus to act.

**MEMBERS AS LEGISLATORS:** Most legislative work is done in committees; but having 266 committees, subcommittees and special panels leads to problems such as 40 committees claiming jurisdiction over an energy bill or a federal agency reporting to more than 20 different panels. With an average of 11 1/2 committee assignments in the Senate and seven in the House, Members are running from hearing to hearing, often unable to focus their attention on one subject for more than a few minutes.

Members' fractured attention leads to a greater reliance on

their personal and committee staffs and on the congressional support agencies. While the number of staff has remained about the same for the past 10 years, it's important for Congress to do what businesses often do and review our manpower needs.

Reorganizing Congress to work better will go a long way to restoring the institution's credibility. To restore respect, however, it's also necessary to address how the institution deals with charges of ethical misconduct by Members and whether Congress is following the same laws it passes for all other Americans - both items on our agenda.

Some of you may have been watching on C-SPAN our hearings which began in January. These hearings are expected to continue through June after which the Committee will begin putting its recommendations together. We want to have reform recommendations ready for both chambers to consider by the fall. As evidence of our commitment to change Congress in a timely fashion, the Joint Committee automatically dissolves at the end of the year.

Public support was crucial for getting the committee created and it will be important for getting recommendations passed. We need to hear from you about what you consider to be the most necessary reforms in Congressional operations.

Please share your views with us by writing: The Joint Committee on the Organization of Congress, 175D Ford Building, Washington, D.C., 20515.



LIST OF WITNESSES BEFORE THE  
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

**JAN. 26 INTRODUCTORY HEARING:**

House Speaker Thomas J. Foley (D-Wash)  
House Majority Leader Richard A. Gephardt (D-Mo)  
House Minority Leader Robert H. Michel (R-Ill)  
Senate Majority Leader George J. Mitchell (D-Maine)  
Senate Minority Leader Robert Dole (R-Kan)

**JAN. 28 INTRODUCTORY HEARING, DISTINGUISHED FORMER MEMBERS:**

Former Rep. Bill Frenzel  
Former Rep. Jim Jones  
Former Sen. Warren Rudman

**FEB. 2 INTRODUCTORY HEARING, CURRENT SENATORS:**

Senate President Pro Tempore Robert Byrd  
Sen. Christopher Bond (R-Mo)  
Sen. Hank Brown (R-Colo)  
Sen. Charles Grassley (R-Iowa)

**FEB. 4 INTRODUCTORY HEARING, CURRENT REPRESENTATIVES:**

Rep. David Price (D-NC)  
Rep. Christopher Cox (R-Calif)  
Rep. Dick Zimmer (R-NJ)  
Rep. Dana Rohrabacher (R-Calif)  
Rep. Michael Castle (R-Del)  
Rep. William Goodling (R-Pa)  
Rep. Ike Skelton (D-Mo)  
Rep. John Porter (R-Ill)  
Rep. Earl Hutto (D-Fla)  
Rep. E. Clay Shaw (R-Fla)  
Rep. Joel Hefley (R-Colo)  
Rep. Jim Bacchus (D-Fla)  
Rep. Dave McCurdy (D-Okla)  
Rep. Porter Goss (R-Fla)  
Rep. Patricia Schroeder (D-Colo)  
Rep. Thomas Barrett (D-Wisc)  
Rep. Dick Swett (D-NH)  
Rep. David Mann (D-Ohio)  
Rep. Jay Dickey (R-Ark)  
Rep. Christopher Shays (R-Conn)  
Rep. Fred Upton (R-Mich)  
Rep. Romano Mazzoli (D-Ky)  
Rep. Scott Klug (R-Wisc)  
Rep. John Boehner (R-Ohio)  
Rep. Charles Taylor (R-NC)  
Rep. John Doolittle (R-Calif)  
Rep. Jim Nussle (R-Iowa)

Rep. Rick Santorum (R-Pa)  
 Rep. Karen Shepherd (D-Utah)  
 Rep. Eric Fingerhut (D-Ohio)  
 Rep. Ronald Machtley (R-RI)  
 Rep. Jack Quinn (R-NY)  
 Rep. Martin Meehan (D-Mass)  
 Rep. Roscoe Bartlett (R-Md)  
 Rep. Michael Crapo (R-Idaho)  
 Rep. Paul McHale (D-Pa)  
 Rep. William Zeliff (R-NH)  
 Rep. Tillie Fowler (R-Fla)  
 Rep. Charles Canady (R-Fla)  
 Rep. John Linder (R-Ga)  
 Rep. Jay Kim (R-Calif)

**FEB. 16    *INTRODUCTORY HEARING, DISTINGUISHED FORMER MEMBER AND PUBLIC WITNESSES:***

Former Sen. Abraham A. Ribicoff (D-Conn)

Thomas E. Mann, Director of Governmental Studies, The Brookings Institution, and  
 Norman J. Ornstein, Resident Scholar, American Enterprise Institute  
 Co-directors of The Renewing Congress Project

David Mason, Director, U.S. Congress Assessment Project,  
 The Heritage Foundation

**FEB. 23    *THE ETHICS PROCESS, MEMBERS WITH ETHICS COMMITTEE EXPERIENCE AND MEMBERS WITH REFORM PROPOSALS:***

Sen. Howell Heflin (D-Ala.)  
 Sen. Trent Lott (R-Miss)  
 Rep. Henry J. Hyde (R-Ill.)  
 Rep. Curt Weldon (R-Pa)  
 Rep. Robert E. Andrews (D-NJ)

**FEB. 25    *THE ETHICS PROCESS, MEMBERS WITH ETHICS COMMITTEE EXPERIENCE AND PUBLIC WITNESSES:***

Rep. Louis Stokes (D-Ohio)  
 Rep. James Hansen (R-Utah)

Harold Bruff, Professor of Law, George Washington University, ABA Committee on Government Reform

Alan Rosenthal, Professor of Public Affairs, Eagleton School, Rutgers University, scholar on state government ethics procedures

John Saxon, Contributor to Hastings Institute Legislative Ethics Project, Representative and Responsibility, Exploring Legislative Ethics.

Dennis Thompson, Professor, Harvard University, lecturer and frequent writer on legislative ethics.

**MARCH 2    *GENERAL REFORM:***

Ross Perot, 1992 presidential candidate and founder of United We Stand, America

**MARCH 4    *THE BUDGET PROCESS:***

Robert D. Reischauer, Director, Congressional Budget Office

**MARCH 11    *THE BUDGET PROCESS, APPROPRIATORS:***

Rep. Bill Natcher (D-KY), Chairman of the House Appropriations Committee

**MARCH 16    *THE BUDGET PROCESS, AUTHORIZERS:***

Sen. Nancy Landon Kassebaum (R-Kan), Ranking Minority Member, Senate Labor and Human Resources Committee

Rep. George E. Brown, Jr., (D-Calif), Chairman, House Science, Space, and Technology Committee

Sen. William V. Roth (R-Del), Ranking Minority Member, Senate Governmental Affairs Committee

**MARCH 18    *THE BUDGET PROCESS, MEMBERS WITH REFORM PROPOSALS:***

Rep. Charles W. Stenholm (D-Texas)

Sen. Barbara A. Mikulski (D-MD)

Rep. William F. Clinger Jr. (R-PA)

Rep. Robert E. Wise, Jr. (D-W.VA)

Rep. Jim Kolbe (R-Ariz)

Rep. Christopher Cox (R-Calif)

Rep. Bill Orton (D-Utah)

**MARCH 23    *THE BUDGET PROCESS:***

Rep. Anthony C. Beilenson (D-Calif), Chairman of the 1984 House Rules Committee task force on the budget process

Joseph White, Research Associate, The Brookings Institution

Louis Fisher, Senior Specialist, Congressional Research Service

Stephen Bell, Managing Director and Manager of the Washington, D.C. office of Salomon Brothers Ind., and former Senate Budget Committee Staff Director

William Pound, Executive Director, National Conference of State Legislatures

**MARCH 25 THE BUDGET PROCESS:**

Rep. Martin Olav Sabo (D-Minn), House Budget Committee  
Chairman

Rep. John R. Kasich (R-Ohio), House Budget Committee  
Ranking Member

**MARCH 30 THE BUDGET PROCESS:**

House Minority Leader Robert H. Michel (R-Ill)

Former Sen. Henry Bellmon (R-Okla), Co-Founder and  
Co-Chairman of The Committee for a Responsible Budget

Former Rep. Willis Gradison (R-Ohio), Former Ranking  
Member of the House Budget Committee

**APRIL 1 THE BUDGET PROCESS AND FRESHMEN REFORM PROPOSALS:**

**BUDGET:** Sen. Wendell Ford (D-KY), Senate Rules and  
Administration Committee Chairman

**GENERAL REFORM:**

House Democratic Freshmen represented by Rep. Eric  
Fingerhut (D-Ohio) and Rep. Karen Shepherd (D-Utah)

House Republican Freshmen represented by Rep. Peter  
Torkelson (R-Mass) and Tillie Fowler (R-Fla)

Sen. Patty Murray (D-Wash)

Sen. Robert F. Bennett (R-Utah) and Sen. Paul  
Coverdell (R-GA)

**APRIL 20 THE COMMITTEE SYSTEM:**

Daniel P. Mulhollan, Acting Deputy Librarian, Library of  
Congress

Former Sens. Adlai E. Stevenson III and William E. Brock,  
Chairman and Ranking Member of the 1976-77 Select Committee  
on the Senate Committee System

Roger Davidson, Professor of Government and Politics at  
the University of Maryland

Thomas E. Mann, Director of Governmental Studies, The  
Brookings Institution, and  
Norman J. Ornstein, Resident Scholar, American Enterprise  
Institute

Co-directors of The Renewing Congress Project

Roger L. Sperry, Director of Management Studies, National Academy of Public Administration (NAPA), testifying on the policy implications of overlapping jurisdictions

**APRIL 22    *THE COMMITTEE SYSTEM, CHAIRMEN AND RMM:***

Rep. Dan Glickman (D-KS), Chairman, Select Committee on Intelligence

Rep. Larry Combest (R-TX), Ranking Minority Member, Select Committee on Intelligence

Rep. Dan Rostenkowski (D-IL), Chairman, Ways and Means

Rep. Jan Meyers (R-KS), RMM, Small Business Committee

Rep. George Miller (D-CA), Chairman, Natural Resources

**APRIL 27    *THE COMMITTEE SYSTEM, CHAIRMEN AND RMM:***

Sen. Patrick Leahy (D-VT), Chairman, Agriculture

Sen. Jay Rockefeller (D-WV) with Sen. Frank Murkowski (R-AK), Chairman and RMM, Veteran's Affairs

**APRIL 29    *THE COMMITTEE SYSTEM, CHAIRMEN AND RMM:***

Rep. Tony Hall (D-OH) with Rep. Bill Emerson (R-MO) to represent the former House Select Committee on Hunger

Rep. Gerald Solomon (R-NY), RMM, House Rules Committee

Rep. John Dingell (D-MI), Chairman, Energy and Commerce

Rep. Gerry Studds (D-MA) with Rep. Herb Bateman (R-VA), Chairman and Member of Merchant Marine and Fisheries

Rep. Bill Clay (D-MO) with Rep. John Myers (R-IN), Chairman and RMM, Post Office and Civil Service

Rep. Henry Gonzalez (D-TX) with Rep. Jim Leach (R-IA), Chairman and RMM, Banking, Finance and Urban Affairs

**MAY 4        *THE COMMITTEE SYSTEM, CHAIRMEN AND RMM:***

Rep. John LaFalce (D-NY), Chairman, Small Business

Sen. Daniel Inouye (D-HI) with Sen. John McCain (R-AZ), Chairman and RMM, Indian Affairs Committee



**MAY 6      THE COMMITTEE SYSTEM, CHAIRMEN AND RMM:**

Rep. Pat Schroeder (D-CO) with Rep. Carolyn Maloney (D-NY), and Rep. Eva M. Clayton (D-NC) testifying on the need for Congress to address children, youth and family issues

Rep. Sonny Montgomery (D-MS), Chairman, Veterans' Affairs

Rep. Charlie Rose (D-NC), Chairman, House Administration

Rep. Norman Mineta (D-CA) with Rep. Bud Shuster (R-PA), Chairman and RMM, Public Works and Transportation

Rep. Henry Hyde (R-IL), testifying on the idea of a Joint Intelligence Committee

Rep. Pat Roberts (R-KS), RMM, Agriculture

**MAY 11      THE COMMITTEE SYSTEM, CHAIRMEN AND RMM:**

Rep. E. (Kika) de la Garza (D-TX), Chairman, Agriculture

Rep. Carlos Moorhead (R-CA), RMM, Energy and Commerce

Sen. David Pryor (D-AR) with Sen. William Cohen (R-ME), Chairman and RMM, Aging

Sen. Dale Bumpers (D-AR), Chairman, Small Business

Rep. William F. Clinger Jr. (R-PA), Government Operations

**MAY 13      THE COMMITTEE SYSTEM, CHAIRMEN AND RMM:**

Sen. Bob Graham (D-FL), discussing conference committees

Rep. Butler Derrick (D-SC), Chairman, Subcommittee on Legislative Process, House Administration

Rep. Benjamin Gilman (R-NY), RMM, House Foreign Affairs

Rep. Don Young (R-AK), RMM, Natural Resources

Sen. Dennis DeConcini (D-AZ), Chairman, Intelligence

**MAY 18      FLOOR DELIBERATIONS AND SCHEDULING**

William H. Brown, House Parliamentarian, and Alan Frumin, Senate Parliamentarian

Lloyd Cutler, former counsel to President Jimmy Carter, discussing Senate Rule XXII

Hyde Murray, former House Republican floor staff  
 Pete Robinson, former House Democratic floor staff  
 Murray Zweben, former Senate Democratic floor staff  
 Bill Hildebrand, former Senate Republican floor staff

**MAY 20 FLOOR DELIBERATIONS AND SCHEDULING:**

Rep. John Joseph Moakley (D-MA), Chairman, House Rules Committee

Rep. David Dreier (R-CA), House Rules Committee

Reps. Deborah Pryce (R-OH), and Lincoln Diaz-Balart (R-FL), freshmen members of the Republican Leader's Task Force on Deliberative Democracy in the House

Steve Smith, political science professor, University of Minnesota, and  
 Barbara Sinclair, political science professor, University of California at Riverside

**MAY 25 FLOOR DELIBERATIONS AND SCHEDULING:**

Rep. Bill Emerson (R-MO)  
 Sen. J. James Exon (D-NE)  
 Sen. David Pryor (D-AR)  
 Rep. W.J. (Billy) Tauzin (D-LA)  
 Sen. Tom Harkin (D-IA)

**MAY 27 APPLICATION OF LAWS:**

Rep. Pat Schroeder (D-CO) and Rep. Olympia Snow (R-ME), Co-Chairs of the Congressional Caucus on Women's Issues

Nancy Kingsbury, Director, Federal Human Resource Management Issues, General Government Division, General Accounting Office

**JUNE 8 APPLICATION OF LAWS:**

Sen. Charles E. Grassley (R-LA) and Sen. Don Nickles (R-OK)

Reps. Chris Shays (R-CT), Dick Swett (D-NH), William Goodling (R-PA) and Harris Fawell (R-IL)

Hal Bruff and David Frederick, American Bar Association  
 Steven Ross, former General House Counsel  
 Nelson Lund, Law Professor, George Mason University

Marsha Greenberger, Co-President, National Women's Law Center  
 Barbara Arnwine, Executive Director, Lawyer's Committee for Civil Rights

**JUNE 10 STAFFING; SUPPORT AGENCIES:**

Joseph Ross, Director, CRS  
 Charles Bowsher, Director, GAO  
 Roger C. Herdman, Director, OTA  
 Robert Reischauer, Director, CBO  
 Michael DiMario, Acting Public Printer, GPO

**JUNE 16 GENERAL REFORM, HOUSE MEMBERS:**

Rep. Tim Roemer (D-IN)  
 Rep. Ralph Regula (D-IN)  
 Rep. Nick Smith (R-MI)  
 Rep. John Mica (R-FL)  
 Rep. Frank Pallone Jr. (D-NJ)  
 Rep. Steve Gunderson (R-WI)  
 Rep. Alex McMillan (R-NC)  
 Rep. Dan Burton (R-IN)  
 Rep. Wayne Gilchrest (R-MD)  
 Rep. Jim Slattery (D-KS)  
 Rep. Stephen Buyer (R-IN)  
 Rep. Tom Andrews (D-ME)  
 Rep. James C. Greenwood (R-PA)  
 Rep. David Minge (D-MN)  
 Rep. George Gekas (R-PA)  
 Rep. Paul Kanjorski (D-PA)  
 Rep. Bob Goodlatte (R-VA)  
 Reps. Tillie Fowler (R-FL), Peter Torkildsen (R-MA), Karen  
 Shepherd (D-UT), and Eric Fingerhut (D-OH) representing the  
 Democrat and Republican freshmen classes

**JUNE 17 ADMINISTRATION OF THE HILL:**

Lt. Gen. Leonard Wishart, Director, Office of Non-  
 Legislative and Financial Services

Rep. William Thomas (R-CA)  
 Rep. Thomas Ridge (R-PA)

**JUNE 22 LEGISLATIVE-EXECUTIVE RELATIONS:**

John Marsh, former Secretary of the Army and former Member  
 of the U.S. House of Representatives

Edward Derwinski, former Secretary of Veterans Affairs

Richard Thornburgh, former Attorney General

Paul Volcker, former Chairman of the Federal Reserve System

John Brademas, former Majority Whip, U.S. House of Representatives

**JUNE 24    *LEGISLATIVE-EXECUTIVE RELATIONS:***

Rep. John Conyers (D-MI)

Sen. John Glenn (D-OH)

Sen. Carl Levin (D-MI)

Sen. Bill Cohen (R-ME)

**JUNE 29    *OPEN DAY FOR OUTSIDE GROUPS:***

Chamber of Commerce, Lonnie Taylor

Common Cause, Fred Wertheimer

US Term Limits, Paul Jacob

Truth in Government, former Rep. Joseph DioGuardi

Former Rep. Frank Horton

Court Reporting Services, Joseph Gimelli

National Fisheries Institute, Richard Gutting, Jr.

Citizens Against Government Waste, Tom Schatz

Institute for Educational Leadership, Margaret Dunkle

Coastal States Organization, David Slade

The Antarctica Project, Beth Marks

Mailers Council, Arthur Sackler

Greenpeace, Gerald Leape

Endangered Species Coalition, Karyn Strickler

The Coast Alliance, Andrew Palmer

Monitor, Craig Van Note

***LEGISLATIVE-JUDICIAL RELATIONS:***

Former Rep. Robert Kastenmeier, Distinguished Fellow,  
Governance Institute

Hon. Patricia Wald, US Court of Appeals for the DC Circuit

Hon. Alex Kozinski, US Court of Appeals for the Ninth  
Circuit

Robert Katzmman, President, Governance Institute

***OPEN DAY FOR MEMBERS:***

Rep. Neal Smith (D-IA)

Sen. Larry Craig (R-ID)

Sen. Byron Dorgan (D-ND)

Sen. Dan Coats (R-IN)

Sen. Sam Nunn (D-GA)

**JULY 1      GENERAL REFORM ISSUES:**

Former Vice President Walter Mondale

**TOTAL: 133 House Members**

37 Senators

14 Former Members

15 Current and former staff members

#### 44 Outside Experts

243 witnesses (those who testified more than once are counted more than once)

TOTAL NUMBER OF HEARINGS: 36

TOTAL HOURS OF HEARINGS: 114



## H. CON. RES. 192

*In the Senate of the United States,**July 30, (legislative day July 23), 1992.*

*Resolved*, That the resolution from the House of Representatives (H. Con. Res. 192) entitled "Concurrent resolution to establish a Joint Committee on the Organization of Congress", do pass with the following

**AMENDMENT:**

Strike out all after the resolving clause and insert:

1 **SECTION 1. ESTABLISHMENT OF COMMITTEE**

2       (a) *ESTABLISHMENT AND MEMBERSHIP.*—*There is es-*  
3 *tablished an ad hoc Joint Committee on the Organization*  
4 *of the Congress (referred to as the "Committee") to be com-*  
5 *posed of—*

6               (1) *12 members of the Senate—*

7                       (A) *6 to be appointed by the Majority Lead-*  
8 *er; and*

9                       (B) *6 to be appointed by the Minority*  
10 *Leader; and*

11               (2) *12 members of the House of*  
12 *Representatives—*

13                       (A) *6 to be appointed by the Speaker; and*

14                       (B) *6 to be appointed by the Minority*  
15 *Leader.*

1       (b) *EX OFFICIO MEMBERS.*—*The Majority Leader and*  
2 *the Minority Leader of the Senate and the Majority Leader*  
3 *and the Minority Leader of the House of Representatives*  
4 *shall be ex officio members of the Committee, to serve as*  
5 *voting members of the Committee. Ex officio members shall*  
6 *not be counted for the purpose of ascertaining the presence*  
7 *of a quorum of the Committee.*

8       (c) *ORGANIZATION OF COMMITTEE.*—(1) *A chairman*  
9 *from each House shall be designated from among the mem-*  
10 *bers of the Committee by the Majority Leader of the Senate*  
11 *and the Speaker of the House of Representatives.*

12       (2) *A vice chairman from each House shall be des-*  
13 *ignated from among the members of the Committee by the*  
14 *Minority Leader of the Senate and the Minority Leader of*  
15 *the House of Representatives.*

16       (3) *The Committee may establish subcommittees com-*  
17 *prised of only members from one House. A subcommittee*  
18 *comprised of members from one House may consider only*  
19 *matters related solely to that House.*

20       (4)(A) *No recommendation shall be made by the Com-*  
21 *mittee except upon a majority vote of the members rep-*  
22 *resenting each House, respectively.*

23       (B) *Notwithstanding subparagraph (A), any rec-*  
24 *ommendation with respect to the rules and procedures of*  
25 *one House which only affects matters related solely to that*

1 *House may only be made and voted on by the members of*  
2 *the committee from that House, and, upon its adoption by*  
3 *a majority of such members, shall be considered to have been*  
4 *adopted by the full committee as a recommendation of the*  
5 *committee. Once such recommendation is adopted, the full*  
6 *committee may vote to make an interim or final report con-*  
7 *taining any such recommendation.*

8 **SEC. 2. STUDY OF ORGANIZATION AND OPERATION OF THE**  
9 **CONGRESS.**

10 (a) *IN GENERAL.—The Committee shall—*

11 (1) *make a full and complete study of the organi-*  
12 *zation and operation of the Congress of the United*  
13 *States; and*

14 (2) *recommend improvements in such organiza-*  
15 *tion and operation with a view toward strengthening*  
16 *the effectiveness of the Congress, simplifying its oper-*  
17 *ations, improving its relationships with and oversight*  
18 *of other branches of the United States Government,*  
19 *and improving the orderly consideration of legisla-*  
20 *tion.*

21 (b) *FOCUS OF STUDY.—The study shall include an ex-*  
22 *amination of—*

23 (1) *the organization and operation of each House*  
24 *of the Congress, and the structure of, and the relation-*

1        *ships between, the various standing, special, and se-*  
2        *lect committees of the Congress;*

3            *(2) the relationship between the two Houses of*  
4        *Congress;*

5            *(3) the relationship between the Congress and the*  
6        *executive branch of the Government;*

7            *(4) the resources and working tools available to*  
8        *the legislative branch as compared to those available*  
9        *to the executive branch; and*

10           *(5) the responsibilities of the leadership, their*  
11        *ability to fulfill those responsibilities, and how that*  
12        *relates to the ability of the Senate and the House of*  
13        *Representatives to perform their legislative functions.*

14 **SEC. 3. AUTHORITY AND EMPLOYMENT AND COM-**  
15        **PENSATION OF STAFF.**

16        *(a) AUTHORITY OF COMMITTEE.—The Committee, or*  
17        *any duly authorized subcommittee thereof, may—*

18            *(1) sit and act at such places and times as the*  
19        *Committee, or any duly authorized subcommittee*  
20        *thereof, determines are appropriate during the ses-*  
21        *sions, recesses, and adjourned periods of Congress;*  
22        *and*

23            *(2) require the attendance of witnesses and the*  
24        *production of books, papers, and documents, admin-*

1        *ister oaths, take testimony, and procure printing and*  
2        *binding.*

3        *(b) APPOINTMENT AND COMPENSATION OF STAFF.—*

4        *(1) The Committee may appoint and fix the compensation*  
5        *of such experts, consultants, technicians, and clerical and*  
6        *stenographic assistants as it deems necessary and advisable,*  
7        *but shall utilize existing staff to the extent possible.*

8        *(2) The Committee may utilize such voluntary and un-*  
9        *compensated services as it deems necessary and may utilize*  
10       *the services, information, facilities, and personnel of the*  
11       *General Accounting Office, the Office of Technology Assess-*  
12       *ment, the Congressional Research Service of the Library of*  
13       *Congress, and other agencies of the legislative branch.*

14       *(3) The members and staff of the Committee shall be*  
15       *reimbursed for travel, subsistence, and other necessary ex-*  
16       *penses incurred by them in the performance of the duties*  
17       *vested in the Committee, other than expenses in connection*  
18       *with meetings of the Committee held in the District of Co-*  
19       *lumbia during such times as the Congress is in session.*

20       *(c) WITNESSES.—Witnesses requested to appear before*  
21       *the Committee shall be reimbursed for travel, subsistence,*  
22       *and other necessary expenses incurred by them in traveling*  
23       *to and from the places at which they are to appear.*

24       *(d) EXPENSES.—*



1           (1) *SENATE.—(A) The Senate members of the*  
2           *Committee shall submit a budget of expenses allocable*  
3           *to the Senate to the Committee on Rules and Admin-*  
4           *istration of the Senate. The Committee may expend*  
5           *for expenses allocable to the Senate not to exceed*  
6           *\$250,000 from the Contingent Fund of the Senate*  
7           *subject to approval by the Committee on Rules and*  
8           *Administration until a Committee funding resolution*  
9           *is approved by the Senate or, if no funding resolution*  
10          *is approved, until March 1, 1993.*

11          *(B) The expenses of the Committee allocable to*  
12          *the Senate shall be paid from the contingent fund of*  
13          *the Senate, upon vouchers signed by the Senate chair-*  
14          *man.*

15          (2) *HOUSE OF REPRESENTATIVES.—Not-*  
16          *withstanding any law, rule, or other authority, there*  
17          *shall be paid from the contingent fund of the House*  
18          *of Representatives such sums as may be necessary for*  
19          *one-half of the expenses of the committee, with not*  
20          *more than \$250,000 to be paid with respect to the sec-*  
21          *ond session of the One Hundred Second Congress.*  
22          *Such payments shall be made on vouchers signed by*  
23          *the House of Representatives co-chairman of the com-*  
24          *mittee and approved by the Committee on House Ad-*  
25          *ministration of the House of Representatives.*

1       *Amounts made available under this paragraph shall*  
2       *be expended in accordance with regulations prescribed*  
3       *by the Committee on House Administration of the*  
4       *House of Representatives.*

5   **SEC. 4. COMMITTEE REPORT.**

6       (a) *REPORT.*—*The Committee shall report to the Sen-*  
7       *ate and the House of Representatives the result of its study,*  
8       *together with its recommendations, not later than December*  
9       *31, 1993.*

10      (b) *RECESS OR ADJOURNMENT.*—*If the Senate, the*  
11      *House of Representatives, or both, are in recess or have ad-*  
12      *journed, the report shall be made to the Secretary of the*  
13      *Senate or the Clerk of the House of Representatives, or both,*  
14      *as the case may be.*

15      (c) *REFERRAL.*—*All reports and findings of the Com-*  
16      *mittee shall, when received, be referred to the appropriate*  
17      *committees of the Senate and the appropriate committees*  
18      *of the House of Representatives.*

19   **SEC. 5. CONDUCT OF COMMITTEE BUSINESS.**

20       *The Committee shall not conduct any business prior*  
21       *to November 15, 1992.*

Attest:

*Walter J. Stewart*  
Secretary.

## JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

Committee Rules

## Rule 1. GENERAL

The rules of the Senate and House, insofar as they are applicable, shall govern the Committee and its subcommittees. The rules of the Committee, insofar as they are applicable, shall be the rules of any subcommittee of the Committee.

## Rule 2. MEETINGS

The meetings of the Committee shall be held at such times and in such places as the co-chairmen, after consultation with the vice-chairmen, may designate, or at such times as a quorum of the Committee may request in writing, with adequate advance notice provided to all members of the Committee. Subcommittee meetings, or meetings of any ad hoc working group or task force established by the chairmen, shall not be held when the full Committee is meeting.

## Rule 3. QUORUM

(a) Thirteen members of the Committee shall constitute a quorum for the purpose of conducting any business.

(b) Two members, one from each party, shall constitute a quorum for the purpose of taking testimony.

(c) Ex-officio members shall not be counted for the purpose of ascertaining the presence of a quorum of the Committee.

## Rule 4. SUBCOMMITTEES, WORKING GROUPS, AND TASK FORCES

(a) The Committee may establish subcommittees comprised of only members from one House. A subcommittee comprised of members from one House may consider only matters related solely to that House. The respective co-chairman and vice-chairman of the Committee shall serve as the chairman and vice-chairman of the subcommittee considering matters related solely to that House.

(b) The co-chairmen, after consultation with the vice-chairmen, may name appropriate ad hoc working groups or task forces of the Committee as the needs of the Committee may dictate. Any working group or task force so established must be comprised of equal representation from the respective Houses and from the majority and minority parties. The co-chairmen, after consultation with the vice-chairmen, shall designate the chairman and vice-chairman of any working group or task force.

#### Rule 5. ORDER OF BUSINESS

Questions as to the order of business and the procedure of the Committee shall in the first instance be decided by the co-chairmen, after consultation with the vice-chairmen, subject to an appeal to the Committee.

#### Rule 6. HEARINGS AND MEETINGS

(a) All hearings and meetings conducted by the Committee or subcommittees shall be open to the public except where the Committee or subcommittee, as the case may be, by a majority vote in open session and with a majority present, by roll call vote, orders an executive session.

(b) The chairmanship of hearings and meetings shall alternate between the House and Senate unless the co-chairmen, after consultation with the vice chairmen, make some other arrangement.

#### Rule 7. WITNESSES

(a) So far as practicable all witnesses appearing before the Committee shall file with the Committee at least 24 hours in advance of the hearing a written statement of their proposed testimony, and their oral testimony shall be limited to brief summaries. Insertions of additional germane material will be received for the record, subject to the approval of a majority of the members present.

(b) The presiding chairman shall provide time for questioning of witnesses by all members, alternating between the chambers and imposing time constraints as necessary, and the rule of relevancy shall be enforced in all hearings.

(c) An accurate stenographic record shall be kept of all testimony and each witness provided with a copy thereof for the purpose of correcting grammatical errors, obvious errors of fact, and errors of transcription. Witnesses shall be allowed 3 days within which to correct and return the transcript of their testimony. If not so returned, the clerk of the Committee may close the record whenever necessary. Each member of the Committee shall be provided with a copy of the hearings transcript for the purpose of correcting errors of transcription and grammar, and clarifying questions or remarks. If another person is authorized by a Committee member to make his or her corrections, the clerk of the Committee shall be so notified.

(d) Selection of witnesses for Committee hearings shall be made by the co-chairmen and vice-chairmen.

#### Rule 8. BROADCASTING

Any meeting or hearing that is open to the public may be covered in whole or in part by radio or television or still photography, unless the Committee or any subcommittee, respectively, by majority vote determine otherwise.

#### Rule 9. COMMITTEE RECOMMENDATIONS

(a) No recommendation shall be made by the Committee except upon a majority vote of the members representing each House, respectively, a majority from each House being present.

(b) Any recommendation with respect to the rules and procedures of one House which only affects matters related solely to that House may only be made and voted on by the members of the Committee from that House, and, upon its adoption by a majority of such members, shall be considered to have been adopted by the full Committee as a recommendation of the Committee. Once such recommendation is adopted, the full Committee may vote to make an interim or final report containing any such recommendation.

#### Rule 10. VOTING

(a) A roll call of the members on a question may be had on the request of any member.

(b) No vote by any member of the Committee with respect to any matter, recommendation, or report may be cast by proxy.



## Rule 11. RECORD OF COMMITTEE PROCEEDINGS AND ACTIONS

There shall be kept a complete record of all Committee proceedings and actions. The records of the Committee, including the records of any and all recorded votes of the Committee but excluding executive session materials, shall be open to all members of the Committee and shall be available for public inspection. Uncorrected transcripts, however, shall not be available for public inspection until the provisions of Rule 7(c) have been satisfied.

## Rule 12. AUTHORITY OF THE COMMITTEE

The Committee, or any duly authorized subcommittee thereof, may-

(a) sit and act at such places and times as the Committee, or any duly authorized subcommittee thereof, determines are appropriate during the sessions, recesses, and adjourned periods of Congress; and

(b) require the attendance of witnesses and the production of books, papers, and documents, administer oaths, take testimony, and procure printing and binding.

## Rule 13. COMMITTEE STAFF

The professional and clerical staff of the Committee shall be under the general supervision and direction of the co-chairmen and vice chairmen and under the direct supervision of the staff director. All staff members shall be selected on the basis of their training, experience and attainments, without regard to race, religion, sex, color, national origin, disability, or age.

## Rule 14. COMMITTEE CO-CHAIRMEN AND VICE-CHAIRMEN

The co-chairmen and vice-chairmen may by unanimous agreement establish such other procedures and take such actions as may be necessary to carry out the foregoing rules.

## Rule 15. CHANGES IN RULES

The rules of the Committee may be modified, amended, or repealed by a majority vote of the members voting at a meeting at which a quorum is present, provided that written notice of any proposed change shall be provided to each member of the Committee not less than 3 calendar days (excluding Saturdays, Sundays, and legal holidays) before the meeting date on which such change is to be considered.















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